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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE

CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

THIRD SESSION

PURSUANT TO

Public Resolution No. 113

(Seventy-fifth Congress)

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 31-A

SUPPLEMENTAL DATA SUBMITTED TO THE
TEMPORARY NATIONAL ECONOMIC COMMITTEE

Printed for the use of the Temporary National Economic Committee



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1941

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(Created pursuant to Public Res. 113, 75th Cong.)

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THEODORE J. KREPS, Economic Adviser

* Alternates.

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BUFFALO, N. Y.
1968

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FOREWORD

According to a democratic procedure laid down by the Temporary National Economic Committee, part 31-A has been set aside for criticisms of monographs and hearing testimony.

It was repeatedly announced by the chairman and the executive secretary of the Temporary National Economic Committee that criticism from responsible persons and business organizations was welcome. The understanding upon which such criticism would be received for the record is that it would be in writing and signed; that the witness or author of the document which formed the subject matter of the criticism would have full right of rejoinder which would be published immediately following the statement of criticism.

Part 31-A was held open for the receipt of all such criticisms until March 29, 1941, when, because of the necessity of getting the material to the Printer before the Temporary National Economic Committee went out of existence on April 3, the volume was closed.

DEWEY ANDERSON,
Executive Secretary.
Temporary National Economic Committee.

CORRESPONDENCE

BETWEEN THE UNITED STATES STEEL CORPORATION,
THE FEDERAL TRADE COMMISSION, AND THE TEM-
PORARY NATIONAL ECONOMIC COMMITTEE, IN CON-
NECTION WITH THE T. N. E. C. HEARINGS CONDUCTED
BY THE FEDERAL TRADE COMMISSION
JANUARY 26-30, 1940

(Hearings before the Temporary National Economic Committee, Part 27)

SUPPLEMENTAL DATA

EXHIBIT No. 2243

COPY OF LETTER BY IRVING S. OLDS, VICE PRESIDENT, UNITED STATES
STEEL CORPORATION

UNITED STATES STEEL CORPORATION,
71 Broadway, New York, February 2, 1940.

WALTER B. WOODEN, Esq.,
Assistant Counsel, Federal Trade Commission,
Washington, D. C.

DEAR MR. WOODEN: Enclosed is a photostatic copy of a price announcement on concrete bars issued by Carnegie-Illinois Steel Corporation under date of June 4, 1936, which, I believe, is the announcement requested by you at the hearing before the Temporary National Economic Committee on Monday, January 29, 1940.¹ I have been unable to send this announcement earlier, as no copy thereof was available in New York, and it was necessary to obtain one from Pittsburgh.

I am informed that the provisions contained in this announcement regarding the place of delivery, which reads as follows: "Place of delivery is recognized to be the railroad freight station nearest the place where the material is to be used or stored for resale, except in the case of products sold for fabrication for an identified structure when the place of delivery is the railroad freight station nearest to the place at which such structure is to be assembled or erected," is one of the standard terms and conditions of sale, still printed on the reverse side of price announcements for all products, and that such a provision does not mean that structural material will only be sold by Carnegie-Illinois Steel Corporation delivered at the place of erection and will not be sold by it delivered at the shop of the fabricator, as was provided in the following provision of Section 4 of Schedule E of the Code of Fair Competition for the Iron and Steel Industry, as approved on August 19, 1933: "and (b) in the case of plates, snapes, or bars intended for fabrication for an identified structure, for the purpose of establishing the delivered price thereof, the place of delivery shall be deemed to be the freight station at or nearest to the place at which such structure is to be erected, and not the shop of the fabricator;".

According to the testimony of Mr. Fairless on Saturday, January 27, 1940, the above quoted provision of the Code "was never effective, even during the Code"² According to the testimony of Mr. Adams on Monday, January 29, 1940, "The practice today is to quote on the basis of the price at point of fabrication."³

I am informed that, after the invalidation of the Code, while Carnegie-Illinois Steel Corporation continued to quote prices on structural material intended to be used for an identified structure delivered at the place of erection of such structure, many sales were made at a price delivered at the fabricator's shop, and that at the present time, although the general practice of Carnegie-Illinois Steel Corporation is to sell structural material delivered at the fabricator's shop, sales are still made from time to time at a price delivered at the point of erection. I am also informed that, in view of the above, it is impossible to name any date as the time of a definite change by Carnegie-Illinois Steel Corporation from one method to the other, but that the present general practice became more prevalent during 1938.

May I ask that this letter be made a part of the record of the Temporary National Economic Committee?

Very truly yours.

IRVING S. OLDS.

ISO:MRW
Enclosure

¹ Hearings, pt. 27, p. 14257.

² Ibid., p. 14214.

³ Ibid., p. 14259.

EXHIBIT No. 2243-1

CARNEGIE-ILLINOIS STEEL CORPORATION

UNITED STATES STEEL CORPORATION SUBSIDIARY

General Offices: Carnegie Building, Pittsburgh, Pa.

JUNE 4, 1936.

PRICE ANNOUNCEMENT TO CONTRACTORS AND OWNERS OF CONSTRUCTION PROJECTS
ON CONCRETE BARS NEW ENGLAND

Effective this date, and until further announcement, the following prices will apply on sales of concrete reinforcing bars for delivery and consumption in the United States:

Price f.o.b. cars delivery point carload lots

Delivery Point	Concrete Bars		Spirals	
	New Billet	Rail	¼"	Larger than ¼"
Portland, Me.	\$2.49	\$2.34	\$4.14	\$3.64
Montpelier, Vt.	2.45	2.30	4.10	3.60
Concord, N. H.	2.46	2.31	4.11	3.61
Boston, Mass.	2.46	2.31	4.11	3.61
Springfield, Mass.	2.43	2.28	4.08	3.58
Worcester, Mass.	2.45	2.30	4.10	3.60
Providence, R. I.	2.47	2.32	4.12	3.62
Hartford, Conn.	2.44	2.29	4.09	3.59

All sales will be made subject to the Extras and to the Standard Terms and Conditions of Sale as covered in Pages 2, 3, and 4 of this Price Announcement.

Prices and delivery at other points in the United States, and to Denver Reclamation Bureau, T. V. A., U. S. Army, U. S. Navy and Panama Canal, will be quoted upon request.

CARNEGIE-ILLINOIS STEEL CORPORATION,
C. V. McKAIG,
Vice President & General Manager of Sales.

CARNEGIE-ILLINOIS STEEL CORPORATION

Extras, Standard Terms and Conditions of Sale Concrete Bars to Contractors or Owners of Construction Projects

All orders and contracts will be subject to approval at seller's General Offices, Pittsburgh, Pa., or Chicago, Ill.

TERMS OF PAYMENT

The terms of payment, unless otherwise hereinafter specified, are net cash within thirty (30) days, or a discount of one-half (½) of one (1) per cent on the net value after deducting transportation charges for payment within ten (10) days, both from date of invoice. The discount which will be indicated on the invoice may be allowed on the basis of settlements twice a month as follows:

(a) On all invoices for these products dated from the 1st to the 15th inclusive of any month, such discount may be allowed on payment of such invoices on or before the 25th of such month.

(b) On all invoices for these products dated from the 16th to the end of any month, such discount may be allowed on payment of such invoices on or before the 10th of the next following month.

On shipments made by ocean or rail and ocean to the States of California, Oregon and Washington, terms of payment are net cash within sixty (60) days, or a discount of one-half (½) of one (1) per cent, for payment within forty (40) days, both from date of invoice.

On sales of these products to the United States Government, the above terms of net cash within thirty (30) days, or a discount of one-half (½) of one (1) per

cent for payment in cash within ten (10) days, shall apply from date of receipt of material at destination rather than the date of invoice.

Shipments and deliveries shall at all times be subject to the approval of Seller's Credit Department, and Seller may at any time decline to make any shipment or delivery except upon receipt of payment or upon terms and conditions or security satisfactory to such Department.

PLACE OF DELIVERY

Place of delivery is recognized to be the railroad freight station nearest the place where the material is to be used or stored for resale, except in the case of products sold for fabrication for an identified structure when the place of delivery is the railroad freight station nearest to the place at which such structure is to be assembled or erected. Page 3 of 4.

TRANSPORTATION BY TRUCK

When transportation is effected by truck provided directly or indirectly by the buyer, an allowance will be made from the delivered price equal to 65 percent of the carload all rail published tariff freight rate including surcharge if any from shipping point to destination.

DELIVERIES TO RAILROADS

Prices which will be applicable on sales made to Railroads, Trustees or Agents thereof, will be quoted upon application. In sales of this character, however, the freight allowance shall not exceed the sum of the foreign line portion (if any) of the through published tariff freight rate and five (5) mills per ton per mile for the on-line movement from shipping point to destination.

LAND GRANT FREIGHT RATES

In the case of sales made to the United States Government, or any department or division thereof, where shipment moves via all-rail transportation on Government bills of lading, at land grant rates, title will be passed at the point of shipment, and the lowest all-rail published freight rate to destination will be allowed, plus an additional amount, if necessary, to equalize any greater benefits from land grant rates which would accrue to the Government from shipping point of any other bidder.

EXTRAS

To the foregoing base prices are to be added the following extras:

Size $\frac{3}{8}$ -inch.....	\$0.10	per 100 lbs.
$\frac{1}{2}$ -inch.....	0.20	" " "
$\frac{5}{8}$ -inch.....	0.40	" " "
$\frac{3}{4}$ -inch.....	1.00	" " "
Spiral extras for cold drawn wire add.....	0.50	" " "
For spirals without spacers deduct.....	0.25	" " "

QUANTITY EXTRAS

Less than 15 tons but not less than 5 tons.....	\$0.15	per 100 lbs.
Less than 5 tons but not less than 1 ton.....	0.25	" " "
Less than 1 ton.....	0.50	" " "

BENDING EXTRAS

Heavy bending.....	\$0.30	per 100 lbs.
Light bending.....	0.80	" " "

WEIGHT SPECIFICATIONS

For weight tolerance more restrictive than the A. S. T. M.		
Tolerance.....	\$0.10	per 100 lbs.

TRUCKING

In Metropolitan New York, Philadelphia and Eastern Penn- sylvania.....	\$0.10	per 100 lbs.
All other points.....	0.05	" " "

NOTE.—Above cartage is in all cases in addition to published freight rate of switching charges.

ENGINEERING

Designing (Preparing designs and placing plans)----- \$0.25 per 100 lbs.
 Design only (Preparing design without placing plans)----- 0.10 " " "
 Detailing and placing plans (from designs made by others):

Quantity	Per 100 lbs.	Max. Chge.
Less than 100 tons.....	\$0. 15	\$250. 00
100 tons to 199.99 tons.....	0. 12½	400. 00
200 tons to 499.99 tons.....	0. 10	750. 00
500 tons to 999.99 tons.....	0. 07½	1, 000. 00
Over 1,000 tons.....	0. 05	-----

GENERAL

If any changes are made in prices and conditions as stated in this list, a supplement will be issued immediately setting forth such changes.

EXHIBIT No. 2244

COPY OF LETTER BY W. B. WOODEN, ASSISTANT COUNSEL, FEDERAL TRADE COMMISSION, TO IRVING S. OLDS, VICE PRESIDENT, UNITED STATES STEEL CORPORATION.

FEBRUARY 5, 1940.

Mr. IRVING S. OLDS,
Vice President, United States Steel Corporation,
71 Broadway, New York, New York.

DEAR MR. OLDS: Your letter of February 2nd and enclosure were received today, and I thank you for the information given.

As a matter of further clarification, however, will you kindly state in what classes of products and cases the Carnegie-Illinois Steel Corporation quotes on structural material (including concrete bars) for use in identified structures f. o. b. place of erection, and in what classes of products and cases it quotes f. o. b. place of fabrication.

Please state whether there was any formal action by the Code Authority which had the effect of revoking Section 4 of Schedule E of the Code relative to quotations on material intended for fabrication for an identified structure.

I shall be glad to ask that your letter and the reply to this one become a part of the record of the Temporary National Economic Committee, as it is important that the record be corrected and clarified in accordance with your supplementary statements.

Yours very truly,

W. B. WOODEN,
Assistant Chief Counsel.

WBW: MJM

EXHIBIT No. 2245

COPY OF LETTER BY IRVING S. OLDS, VICE PRESIDENT, UNITED STATES STEEL CORPORATION, TO WALTER B. WOODEN, ASSISTANT COUNSEL, FEDERAL TRADE COMMISSION.

UNITED STATES STEEL CORPORATION

71 BROADWAY, NEW YORK

FEBRUARY 8, 1940.

WALTER B. WOODEN, Esq.,
Assistant Chief Counsel, Federal Trade Commission,
Washington, D. C.

DEAR MR. WOODEN: Your letter of February 5, 1940, was received on Tuesday. In answer to the request contained in the second paragraph thereof, I am informed that the present sales practices of Carnegie-Illinois Steel Corporation are as follows:

(a) Plates, Shapes and Bars for use as structural material are generally sold delivered at the point of fabrication.

(b) Concrete reinforcing bars (which were sold delivered at the point of fabrication during the N. R. A. Code period and were not covered by the provisions of Section 4 of Schedule E of the Code, approved on August 19, 1933, which provided that sales should be made delivered at the point of erection rather than at the point of fabrication) are largely handled through jobbers and are usually sold delivered at the place of the jobber's warehouse. This product, however, when the purchaser so requests is very often sold delivered at the point of erection of the identified structure.

In answer to the request contained in the third paragraph of your letter I am informed that there was no formal action by the Code Authority, which had the effect of revoking such Section 4 of Schedule E of the Code.

In this connection I would like to correct an apparent misapprehension of the meaning of my letter of December 13,¹ 1939, addressed to Mr. James R. Brackett, Executive Secretary, Temporary National Economic Committee, in which I stated, following the language of Mr. Brackett's question: "I am informed that the officials of United States Steel Corporation know of no amendments or modifications since June, 1935, of Commercial Resolutions and Regulations adopted during the N. R. A. Code period, or similar statements or announcements of commercial practice made since June, 1935." You have apparently interpreted this to mean that these Commercial Resolutions and Regulations continued in effect after June, 1935. These Commercial Resolutions and Regulations were, of course, invalidated along with the Code itself by the decision of the United States Supreme Court in the *Schechter case* in May, 1935, and I am informed that thereafter no authority existed in any body to adopt, amend, modify or revoke any such resolutions or regulations or any similar statements or announcements of commercial practice.

I am informed that on June 3, 1935, the Board of Directors of the American Iron and Steel Institute adopted the following resolution, which was referred to in the hearings last month, and also by Mr. Burr at the hearing on March 6, 1939:

"WHEREAS the Chairman of the National Industrial Recovery Board has issued a statement with regard to the decision of the United States Supreme Court in the *Schechter Poultry Corporation* case in which he expressed the hope 'that all employers heretofore operating under approved codes and all their employes will cooperate in maintaining those standards of fair competition in commercial and labor relations which have been written into the codes with practically universal sanction, and which represent a united effort to eliminate dishonest, fraudulent trade practices and unfair competition in overworking and underpaying labor.';

"RESOLVED that it is hereby declared to be the sentiment of the Board of Directors of the American Iron and Steel Institute that the individual members of the Iron and Steel Industry, acting voluntarily, during the present uncertainty, maintain the present rates of pay and maximum hours of labor and the standards of fair competition which are set forth in the Steel Code, and that the members of the Industry continue to protect the employes' rights of collective bargaining; and

"RESOLVED that the Executive Secretary of the Institute be, and he hereby is, authorized and directed to send a copy of these resolutions to each member of the Industry."

I am informed that, as stated in the language above quoted, this resolution was adopted as an expression of sentiment by the Board of Directors of the American Iron and Steel Institute in order to comply with the publicly expressed wishes of the Chairman of the National Industrial Recovery Board. I am further informed that the United States Steel Corporation and its subsidiaries never at any time considered that such resolution, or the ratifying resolution adopted by various members of the iron and steel industry on June 6, 1935, covered or called for any continuation of the above mentioned Commercial Resolutions and Regulations adopted during the N.R.A. Code period.

As Mr. Burr, in his testimony before the Temporary National Economic Committee on March 6, 1939 (page 316 of Verbatim Record),² referred to such ratifying resolution adopted by various members of the iron and steel industry on June 6, 1935, I should like to call to your attention the full text of such resolution as then sent to members of the steel industry by the American Iron and Steel Institute. The full resolution reads:

"RESOLVED, that the members of the Iron and Steel Industry in General Meeting assembled this sixth day of June, 1935, hereby unanimously ratify the resolution of the Board of Directors of American Iron and Steel Institute, adopted June 3, 1935, and each of us hereby declares that the Company which he represents

¹ In file of Federal Trade Commission.

² Hearings before the Temporary National Economic Committee, Part 5, p. 1885.

is in favor of supporting the position taken by such resolution and that it is the intention of such Company, acting individually and voluntarily, in so far as it may do so, during the present uncertainty to maintain the present rates of pay and maximum hours of labor and the standards of fair competition which are described in the Steel Code, and that such Company will continue to protect the employees' rights of collective bargaining."

Referring to willingness on your part stated in the last paragraph of your letter of February 5th, I shall appreciate your asking that this letter and my earlier letter of February 2, 1940 to you be made a part of the record of the Temporary National Economic Committee.

Very truly yours,

[S] IRVING S. OLDS.

ISO:MRW

EXHIBIT No. 2246

COPY OF PRICE ANNOUNCEMENTS BY J. H. MCKOWN, ASSISTANT VICE PRESIDENT, CARNEGIE-ILLINOIS STEEL CORPORATION, TO ALL MANAGERS OF SALES.

CLEMENT V. MCKAIG, Vice President and General Manager of Sales

J. HALSEY MCKOWN, Assistant Vice President and Assistant General Manager of Sales

CARNEGIE-ILLINOIS STEEL CORPORATION

UNITED STATES STEEL CORPORATION SUBSIDIARY

General offices: Carnegie Building, Pittsburgh, Pa.

MAY 26, 1936.

To all managers of sales:

Subject: Third quarter prices 1936

Supplementing our letter of May 23rd, we are sending you in, today's mail, a supply of two new Price Announcement forms—(1) Hot Rolled Carbon Steel—(2) Hot Rolled Alloy Steel—both of which have been designed to simplify the work of the District Office.

We have arranged, and are enclosing for your convenience, a chart showing prices announced to date on various commodities. This will be supplemented from time to time as additional details are ascertained.

The Price Announcement on Hot Rolled Alloy Steel Bars only covers such products as are specifically mentioned in our Standard Classification of Extras. In this respect, we ask that you confer regarding prices for Hot Rolled Alloy Small Shapes, Plates, and Structural Shapes.

We also call your attention to the following changes in our Standard Classification of Extras for the Third Quarter, these in addition to the recently announced change in Size Extras on Hot Rolled Carbon Steel Blooms, Billets and Slabs, Forging Quality—those changes will be incorporated in the next revisions of the several extra cards involved:

1. Hot Rolled Carbon Steel Bars—Automobile Bumper Steel Bars (Page 5):

Revision:

Front or Impact Bars—Special Sections. Extra for Section and Quality, in addition to regular extras for chemical specifications:

Sections .156" thick and heavier.....	.15c per lb.
Sections under .156" to .125", inc.....	.25c per lb.
Sections under .125".....	.35c per lb.

Other Bumper Bars are subject to Automobile Spring Steel extras plus extras for chemical specifications.

2. Hot Rolled Strip Steel—Cutting Extras (Page 6):

Revision:

Specified lengths—42" or over.

Over 24" to 42", exclusive.

Over 12" to 24", inclusive.

Hot Rolled Strip Steel—Quality and Workmanship Extras (Page 7):

Revision:

Tack Plate Quality----- .30c per lb.

3. Hot Rolled Sheets and Hot Rolled Annealed Sheets--Processing Extras
(Page 6):

Revision:

Tack Plate Quality (In addition to size extras)----- .30c per lb.

If any details given you thus far are not entirely clear, please do not hesitate to call upon us for further information.

Very truly yours,

J. H. McKOWN,
Assistant Vice President and
Assistant General Manager of Sales.

Delivery point prices

[All prices are base per 100-lbs.]

SHEETS

Delivery Points	Struc. & C. B. Sects.	Plates	Floor Plates	Heavy Hot Rolled No. 10 Base (Inc. No. 7 to No. 16)	Hot Rolled Annealed No. 24 Base (Under No. 16 to No. 18, Inc.)	Strip	Bars & Small Shapes	Concrete Bars (Con-tractors)	Skelp	Piling	Axles
Pittsburgh, Pa.....	\$1.925	\$1.925	\$3.475	\$1.975	\$2.525	\$1.975	\$1.975	Confer..	\$1.825	Confer..	Confer
Birmingham, Ala.....	2.075	2.075	-----	2.125	2.675	2.125	2.125	Confer..	-----	Confer..	Confer
Bethlehem, Pa.....	2.025	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
Buffalo, N. Y.....	2.025	-----	-----	-----	-----	-----	2.075	Confer..	1.825	Confer..	-----
Chicago, Ill.....	1.98	1.98	3.53	-----	-----	2.08	2.03	Confer..	1.83	Confer..	Confer
Cleveland, Ohio.....	-----	-----	-----	-----	-----	-----	2.025	Confer..	-----	-----	-----
Coatesville, Pa.....	-----	2.025	3.575	-----	-----	-----	-----	-----	1.825	-----	-----
Duluth, Minn.....	-----	-----	-----	-----	-----	-----	2.125	-----	-----	-----	-----
Gary, Ind.....	-----	1.98	-----	2.08	2.63	2.08	2.03	Confer..	-----	-----	-----
Sparrows Pt., Md.....	-----	2.025	-----	-----	-----	-----	-----	Confer..	1.825	-----	-----
Youngstown, Ohio.....	-----	-----	-----	-----	-----	-----	-----	Confer..	1.825	-----	-----
Gulf Ports.....	2.325	2.325	3.875	-----	-----	-----	2.375	Confer..	-----	Confer..	-----
Pac. Coast Ports.....	2.475	2.475	4.025	2.525	3.175	-----	2.525	Confer..	-----	Confer..	-----

*Birmingham, Ala.: Standard Structural Shapes Only.

Pacific Coast and Gulf Ports prices base plus Ocean Carrier long length and heavy lift extras per Freight Tariff No. 1-A in addition to standard extra.

Minimum Carload: Chicago and Gary--60,000 lb.--Finished--30 Gross Tons--Semi-Finished. Other Points--50,000 lb.--Finished--25 Gross Tons--Semi-Finished.

ALLOY STEEL

[Billets, Slabs and Ingots--Prices Base per Gross Ton. All Others--Prices Base Per 100]

Delivery Point	Struct. Shapes	Alloy Plates	Alloy Bars	Alloy Small Shapes	Alloy Billets & Slabs	Alloy Ingots
Pittsburgh, Pa.....	Confer.....	Confer.....	\$2.575	Confer.....	\$51.50 G. T.	\$42.50 G. T.
Birmingham, Ala.....	Confer.....	Confer.....	-----	Confer.....	-----	-----
Bethlehem, Pa.....	Confer.....	Confer.....	2.575	Confer.....	51.50	42.50
Buffalo, N. Y.....	Confer.....	Confer.....	2.575	Confer.....	51.50	42.50
Canton, Ohio.....	Confer.....	Confer.....	2.575	Confer.....	51.50	42.50
Chicago, Ill.....	Confer.....	Confer.....	2.58	Confer.....	51.60	42.60
Gary, Ind.....	Confer.....	Confer.....	-----	Confer.....	-----	-----
Massillon, Ohio.....	Confer.....	Confer.....	2.575	Confer.....	51.50	42.50

Minimum Carload: Chicago and Gary--60,000 lb. Finished; 30 Gross Tons Semi-Finished. Other Points--50,000 lb. Finished; 25 Gross Tons Semi-Finished.

SEMI-FINISHED MATERIAL

[All Prices Are Base per Gross Ton]

Hot Rolled

Delivery Point	Blooms, Billets, Slabs, Rerolling	Blooms, Billets, Slabs, Forging	Ingots For- ging	Sheet Bars	Rods over 15/32" to 47/64", Inc.
Pittsburgh, Pa.	\$30.50	\$37.50	Confer	\$30.50	Confer
Anderson, Indiana					Confer
Birmingham, Ala.	30.50	37.50	Confer		Confer
Buffalo, N. Y.	30.50	37.50	Confer	30.50	
Canton, Ohio				30.50	
Chicago, Ill.	30.60	37.60	Confer	30.60	Confer
Cleveland, Ohio	30.50	37.50	Confer	30.50	Confer
Duluth, Minn. (Billets only)	32.50	39.50			
Galveston, Texas (Gulf Ports)					Confer
Gary, Indiana	30.60	37.60	Confer		
San Francisco, Cal. (Pacific Coast)					Confer
Sparrows Point, Md.				30.50	
Worcester, Mass.					Confer
Youngstown, Ohio	30.50	37.50	Confer	30.50	Confer

Minimum Carload: Chicago and Gary—60,000 lb. Finished; 30 Gross Ton Semi-Finished. Other Points—50,000 lb. Finished; 25 Gross Ton Semi-Finished.
 CARNEGIE-ILLINOIS STEEL CORPORATION,
 General Sales Department.

EXHIBIT No. 2246-A

COPY OF LETTER BY J. H. MCKOWN, ASSISTANT VICE PRESIDENT,
 CARNEGIE-ILLINOIS STEEL CORPORATION, TO ALL MANAGERS OF
 SALES

CARNEGIE-ILLINOIS STEEL CORPORATION

UNITED STATES STEEL CORPORATION SUBSIDIARY

General Offices: Carnegie Building

Pittsburgh, Pa.

JUNE 6, 1936.

Subject: Third Quarter Prices 1936.

To: All Managers of Sales:

Supplementing our letter of May 23rd covering price announcements, wish to advise you that there will be an advance of \$2.00 per ton on Steel Axles for such business to be shipped during the third calendar quarter year ending September 30, 1936, resulting in the following delivered prices:

Pittsburgh	2.925c base
Birmingham	2.925c base
Chicago	2.93 c base

These prices are subject to the Standard Classification of Extras covering Steel Axles as well as our Standard Terms and Conditions of Sale as provided for our other products.

All inquiries should be submitted as heretofore.

Very truly yours,

(S) J. H. MCKOWN,
 Assistant Vice President
 and Assistant General Manager of Sales.

EXHIBIT No. 2247

COPY OF LETTER BY BENJAMIN F. FAIRLESS, PRESIDENT, UNITED STATES
STEEL CORPORATION, TO SENATOR JOSEPH C. O'MAHONEY, CHAIRMAN
OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE

FEBRUARY 1, 1940.

HON. JOSEPH C. O'MAHONEY,
*Chairman, Temporary National Economic Committee,
United States Senate, Washington, D. C.*

DEAR SENATOR O'MAHONEY: My attention has just been called to certain statements made by Mr. Willis J. Ballinger, Director of Studies of the Federal Trade Commission, at the hearing before the Temporary National Economic Committee on January 30, 1940, in which Mr. Ballinger purported to summarize some of my testimony at previous hearings. I was not present at this hearing on January 30, 1940, as I had been informed by representatives of the Federal Trade Commission at the conclusion of the hearing on the preceding day that the Federal Trade Commission had no further questions to ask of Mr. Avery C. Adams and myself, and that we were excused from attending the hearing on January 30, 1940.

As events beyond your control prevented you from attending any of the hearings at which I was a witness, I think it is proper for me to state to you that the summarization of my testimony so given by Mr. Ballinger is not accurate and gives a meaning entirely different from that conveyed by my complete testimony. I respectfully ask that before you and the other members of the Temporary National Economic Committee reach any conclusion, my entire testimony be considered, rather than any summarization thereof given by Mr. Ballinger or by any other representative of the Federal Trade Commission.

As reported on page 395 of the Verbatim Record of the Proceedings on January 30, 1940, Mr. Ballinger stated: "Mr. Fairless admitted that when the basing-point system was followed that it eliminated price competition in the steel industry. That was a very significant admission. * * *¹ and then quoted a few excerpts from my testimony, apparently in an attempt to support his further statement (also reported on page 395) that "when the basing-point system was observed, Mr. Fairless clearly conceded that price competition was eliminated from the steel industry. * * * Now it becomes a question of how much the basing system is followed in the steel industry, and Mr. Fairless' whole defense was that this thing, the basing-point system, is sort of a shadowy thing that stands there and nobody takes advantage of it, they are always departing from it, and naturally that suggests why they have it in the first place * * * Apparently, as I get it, they did not defend the basing-point system. They said competition existed in the industry because of departures from it."²

Another statement by Mr. Ballinger to the same effect is reported in the first column on page 396 of the Verbatim Record of the Proceedings on January 30, 1940.³

May I bring to your attention that Mr. Ballinger failed to cite the following portions of my testimony, which I think throw some additional light on the character of my testimony relative to the particular points he was discussing:

(Extract from page 318 of Verbatim Record of Proceedings on January 26, 1940:

"MR. WOODEN. Mr. Fairless in that connection, even when the basing-point system is working one hundred percent and producing an identical delivered price, your mill net realizations fluctuate even then, do they not?"

"MR. FAIRLESS. The basing-point system works one hundred percent every day, twenty-four hours of every day, but it doesn't result in uniform prices because that isn't the reason that the system is in vogue or practice."⁴

(Extract from page 319 of Verbatim Record of Proceedings on January 26, 1940:)

"MR. FAIRLESS. I would like most emphatically, if I have that ability, to once and for all state our position in so far as the basing-point system is concerned. Our contention is that breaks in prices are not a breakdown to any degree of the so-called basing-point system. We contend that the basing-point system was in effect and worked just as well when sheets and other flat rolled products sold for eight dollars a ton under the market as it did when they sold definitely on the market.

"There is no relationship, and to constantly be asking us the question about the breakdown of the basing-point system we don't believe is a fair presentation. Everybody, of course, is entitled to their own opinion of the basing-point system,

¹ Hearings before the Temporary National Economic Committee, Part 27, p. 14316.

² Idem. ³ Ibid., p. 14317. ⁴ Ibid., p. 14175.

but we contend that the basing-point system is only a vehicle which we use to merchandise our products. We have told you we use it because we know of no better method to merchandise our product. There might be, and if out of these hearings could come that, we would be the first to welcome it.

"Now so far as competition, the fact that you have basing points and that prices are quoted as applying to those basing points for various products, and the fact that these prices are not maintained or are maintained or are reduced, so many dollars one time and more or less dollars at another time, is in no way in relationship to the basing-point system is our contention, and I would like to make that clear if I can."⁵

(Extract from page 341 of Verbatim Record of Proceedings on January 27, 1940:)

"Mr. WOODEN. Now I also recall that you testified yesterday afternoon that you agreed with Mr. Gregg, Vice-President of your company, when he testified that if the basing-point systems were fully operative there would be no competition in price. Is that correct?

"Mr. FAIRLESS. That is not correct.

"Mr. WOODEN. What is your position with reference to that?"

* * * * *

"Mr. FAIRLESS. My contention is that competition exists even although two or more companies arrive at the same price or have identical bids, providing, of course, that the conclusion is arrived at legally. It seems to me that when two or more companies are interested in getting a piece of business, tonnage, a contract, that has to do with steel, you immediately have competition. The fact that each of those companies has announced prices to the public certainly prevents them from charging any price that they might choose to charge."⁶

(Extract from page 342 of Verbatim Record of Proceedings on January 27, 1940:)

"Mr. FAIRLESS. What I did say, Mr. Chairman, was this, that if all steel companies—if all steel companies—had basing points and posted their base prices, which is to begin with a competitive situation, but if they did post their prices and they did quote in respect to steel tonnage in a territory, or any territory, and they used the nearest basing point and applied the base price that had been published by the company that governed or controlled that basing point, and added all the charges, extras and all the transportation charges, there would be obviously uniform prices arrived at, but that doesn't mean that that would not still be a competitive price so far as competition is concerned, because the basis to begin with, the base price, was competitive, bound to be competitive."⁷

Various statements made by Mr. Ballinger and Mr. Wooden at the hearing on January 30, 1940 seem to me to convey the impression that the testimony of Mr. Adams and myself was contrary to and not in support of the pamphlet on the basing point practice; submitted to the Committee by United States Steel Corporation as Exhibit No. 1418. That is not correct, and I hope that you and each other member of the Committee will read this pamphlet in its entirety before reaching any conclusion.

May I request that this letter be made a part of the record of the Temporary National Economic Committee?

Respectfully yours,

BENJAMIN F. FAIRLESS,
President.

BFF:MRW

Copy to: Mr. Willis J. Ballinger, Director of Studies, Federal Trade Commission, Washington, D. C.

⁵ Ibid., p. 14177.

⁶ Ibid., p. 14188.

⁷ Ibid., p. 14190.

EXHIBIT No. 2248

COPY OF LETTER BY WALTER B. WOODEN, ASSISTANT COUNSEL, FEDERAL TRADE COMMISSION, TO SENATOR JOSEPH C. O'MAHONEY, TNEC CHAIRMAN, IN REFERENCE TO TESTIMONY OF BENJAMIN F. FAIRLESS, PRESIDENT, UNITED STATES STEEL CORPORATION

FEDERAL TRADE COMMISSION,
Washington, February 6, 1940.

Hon. JOSEPH C. O'MAHONEY,
Chairman, Temporary National Economic Committee,
United States Senate, Washington, D. C.

DEAR SENATOR O'MAHONEY: The letter of Mr. B. F. Fairless, president of the United States Steel Corporation, to you under date of February 1, 1940, has come to my attention through a copy which he sent to Mr. Ballinger. The statement is noted that various comments by Mr. Ballinger and me at the hearing of January 30 imply that Mr. Fairless' testimony was contrary to, and not in support of, the Corporation's pamphlet submitted to the Committee as Exhibit 1418. Such a conclusion is now challenged by the Corporation.

There are other portions of Mr. Fairless' testimony to which attention should be called as well as those set forth in his letter. Taken collectively, they support the challenged conclusion. They also support the comments of Mr. Ballinger to which exception is specifically taken.

The Corporation's letter quotes from Mr. Fairless' testimony on page 341 of the verbatim record that it was not correct to say that he had agreed with Mr. Gregg, a vice-president of the Corporation,¹ who had said that if the basing point system "were universally followed, there would be no competition in so far as one element of competition is concerned, namely, price." Yet Mr. Fairless had previously testified, as shown on page 317 of the verbatim record, as follows:

"We will concede, if that is the point we are trying to make, that if base prices as announced were followed in every transaction, and that the nearest basing point to the consumer governed, and that the rail freight was added from that point, and the delivered price arrived at in that manner, there wouldn't be any competition in the Steel Industry. It would be a one price industry pure and simple."²

Mr. Fairless had also testified that "As I read from the record, Mr. Gregg said substantially what I have just said." (Page 318 of verbatim record.)³

By contrast with the foregoing, Mr. Fairless now quotes from his testimony on page 318 of the verbatim record, as follows:

"The basing-point system works 100% every day, 24 hours of every day, but it doesn't result in uniform prices because that isn't the reason that the system is in vogue or practice."⁴

Although Mr. Fairless made that claim, the Corporation, in its prepared statement to the Committee, quoted from a report of the NRA that "the outstanding characteristic of the basing-point system is the fact that it puts rival producers on a footing of price equality with each other in all the consuming points over a wide area." (Exhibit 1418, page 37.) Mr. Fairless testified that this was "a true statement," although claiming at the same time that this did not preclude competition in such areas. (Page 318 of verbatim record.)⁵

Taking these several quotations together, they amount to saying that if the basing-point system is working 100% there would be no price competition, but that although the system works 100%, 24 hours of every day, it does not result in uniform prices. They amount to saying also that the system is not intended to produce uniform prices although that is its outstanding characteristic.

Mr. Fairless' letter also cites his testimony on page 319 of the verbatim record to the effect that the fact that basing point prices "are not maintained, or are maintained, or are reduced so many dollars one time and more or less dollars at another time is in no way in relationship to the basing-point system." He testified that such "is our contention and I would like to make that clear if I can." He further testified that "our contention is that breaks in prices are not a breakdown to any degree of the so-called basing-point system," and that "the basing-point system was in effect and worked just as well when sheets and other flat rolled products sold for \$8 a ton under the market as it did when sold definitely on the market."⁶

¹ Hearings before the Temporary National Economic Committee, part 27, p. 14188.

² Ibid., p. 14172.

³ Ibid., p. 14174.

⁴ Ibid., p. 14175.

⁵ Ibid., p. 14171.

⁶ Ibid., p. 14177.

Such contentions are equivalent to saying that the system whose outstanding characteristic is to put rival producers on a footing of price equality everywhere works just as well when steel products are sold far below the equal delivered prices which the system contemplates. They are the equivalent of saying that while reductions below the market price of the system have no relationship to the system itself, nevertheless, the system is in effect and works just as well when prices are being made below the market price reflected by the system. If, in fact, price reductions have no relation to the system, it would follow that the system, as such, tends to maintain prices on a higher level.

In the concluding parts of Mr. Fairless' letter, his testimony on pages 341 and 342 of the verbatim record is cited,⁷ to the effect that competition exists even where producers make identical bids and that as long as the base price is competitive the whole basing-point system is competitive, notwithstanding that it produces identical delivered prices. This position cannot be reconciled with Mr. Fairless' testimony on page 317 that if delivered prices were arrived at by adding rail freight from the governing basing point to the announced base price "there wouldn't be any competition in the Steel Industry."⁸ Nevertheless, the position that the system is competitive is the main theme and thesis of the Corporation's pamphlets submitted to the Committee as Exhibits 1418 and 1410.

Since you were not present when Mr. Fairless gave his testimony, it would be desirable, as he suggests, that his entire testimony be considered, and not only the portions which he and I have called to your attention. There is not the slightest objection to having Mr. Fairless' letter made a part of the record, as he requests, but may I not ask that this letter of comment be similarly received?

Respectfully yours,

WALTER B. WOODEN,
Attorney.

Copy to: Mr. Benjamin F. Fairless, President, United States Steel Corporation,
New York, New York.

EXHIBIT No. 2249

COPY OF LETTER BY J. L. PERRY, PRESIDENT, CARNEGIE-ILLINOIS STEEL CORPORATION

CARNEGIE-ILLINOIS STEEL CORPORATION

UNITED STATES STEEL CORPORATION SUBSIDIARY
General Offices: Carnegie Building, Pittsburgh, Pa.

DECEMBER 14, 1939.

Mr. J. H. McKOWN,

Asst. Vice President, United States Steel Corporation of Delaware, Pittsburgh.

DEAR SIR: Referring to yours of December 6, regarding the request received through Mr. Olds from Mr. James R. Brackett, Executive Secretary of the Temporary National Economic Committee, for certain information you will recall that on December 11 we submitted our reply to Item 4. Attached is information covering replies to Items 2 and 3.

Item 2a covers a list of principal rolled steel products and the basing points applicable to each since June 1935. Item 2b covers the base prices at our basing points on each product, with the dates of changes at our basing points since June 1, 1935. We have not included any statement as to the dates on which prices were announced at basing points other than our own as we have no accurate record of such dates, nor do we have a record as to who first announced or established prices at such basing points. We are able to furnish such information only with respect to our own basing points and would be obliged to refer to the trade journals for information as to basing points other than our own. Item 2c includes copies of such printed price announcements as were issued since the inauguration of this practice in May, 1936.

Items 3a and 3b include similar information on pig iron. It has not been our practice to issue printed price announcements on pig iron.

Yours very truly,

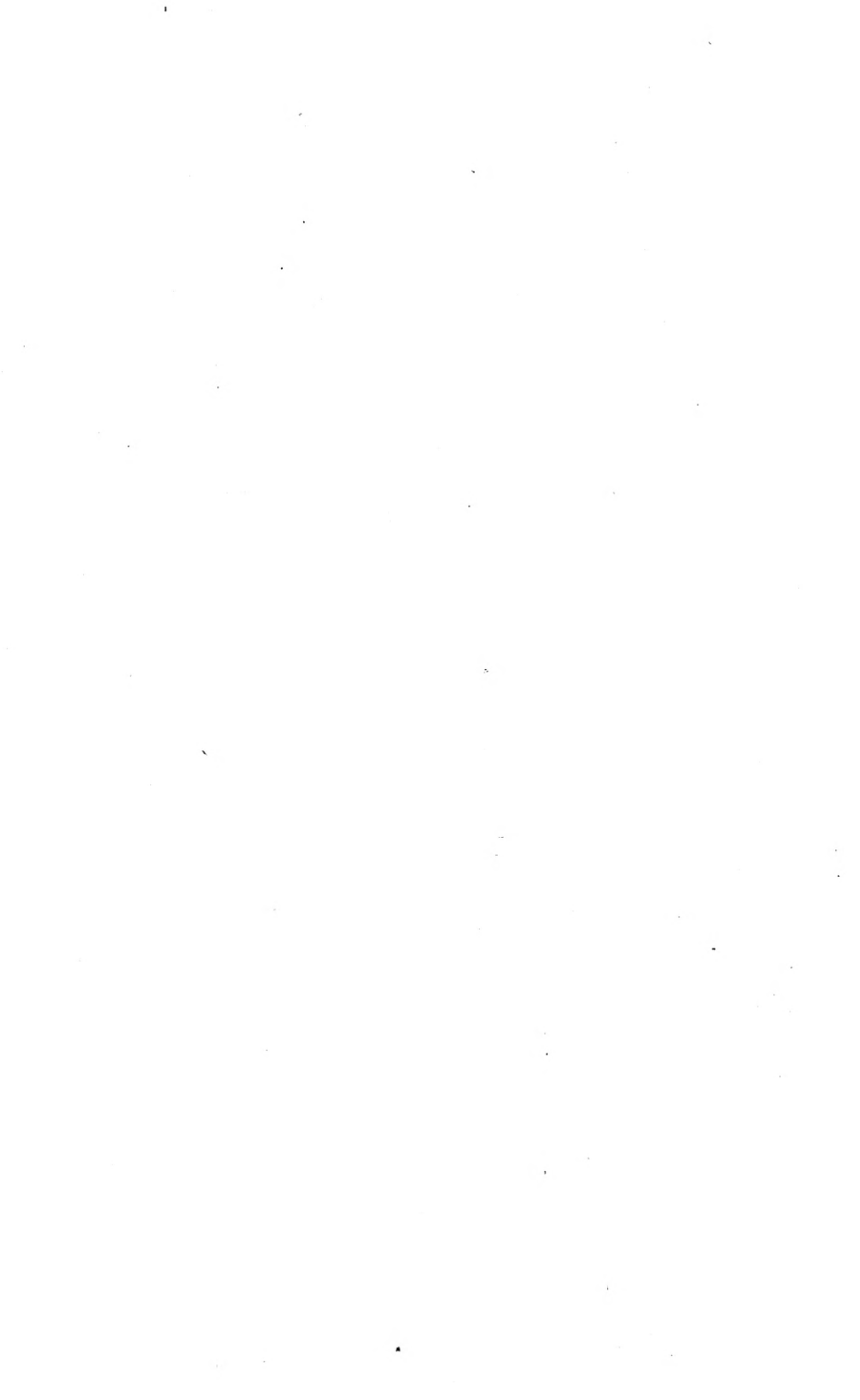
(s) J. L. PERRY,
President.

⁷ Ibid., pp. 14188-90.

⁸ Ibid., p. 14172.

MEMORANDUM ON PATENTS

SUBMITTED BY SENATOR WILLIAM H. KING, UTAH,
AND ACCEPTED FOR PUBLICATION IN THE PROCEED-
INGS OF THE COMMITTEE. IT IS UNDERSTOOD THAT
THIS IS MATERIAL OF WHICH SENATOR KING IS THE
AUTHOR AND FOR WHICH HE ASSUMES FULL RESPON-
SIBILITY. IT DOES NOT EXPRESS NOR IS IT
INTENDED TO EXPRESS THE VIEWS
OF THE COMMITTEE



PATENTS AND THE PATENT SYSTEM

By WILLIAM H. KING

Any study of patents and the patent system and their relation to national economic problems must be predicated on a knowledge of the theory of the patent grant, the historical and the practical reasons for a Government grant of a limited monopoly to inventors, the scope within which the patentee may legally make, use, or sell his invention, or the product of his invention, and beyond which he cannot go, and the arguments for and against various changes which have been recommended to our patent laws.

Under the common law there was no right to a monopoly in an invention—the inventor had an exclusive property right in his invention only so long as he kept it a secret. If the secret became known, anyone who legitimately came into the possession of the invention could make use of it. Inventors were naturally very secretive about their inventions and guarded the secret with the greatest of care. Many of these secrets were never disclosed and died with the inventors. This system was productive of economic waste; and it was early recognized that to bring about the disclosure of inventions useful to the public, it was necessary to grant to the inventor exclusive privileges for the protection of his invention. Grants of exclusive privileges for the protection of inventions were thus given by the sovereign in England and, although the common law was opposed to monopolies, these grants were recognized as beneficial monopolies since they brought about a disclosure of something new to the public in which everyone could share when the monopoly expired.

The founders of our Government recognized it as good business to encourage a man or a group to expend time, energy, and money in research and experimentation to develop something new for the benefit of the public. And so to stimulate trade and industry in the new country, the framers of our Constitution laid the foundation for our patent system in article I, section 8, of the Constitution, which provides:

The Congress shall have Power * * * To Promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; * * *

In the Documents Illustrative of the Formation of the Union of the United States (1927) it is stated, on pages 666 and 667, that the provision was proposed and agreed to without argument or amendment. And an examination of those documents will disclose the fact that this provision was one of the few provisions upon which there was unanimous agreement.

Prior to the American Revolution England's policy had been to use the Colonies as a source for raw materials to be shipped to England and manufactured there for the benefit of English capital and labor. Manufacture in the Colonies was discouraged by England as much

as possible, but despite this fact many of the Colonies had granted patent monopolies to inventors and had sought to encourage manufacture of goods in America. This assertion by the Colonies of the right to encourage invention and manufacture in America was one of the factors which led to the American Revolution. (See Victor Selden Clarke, *History of Manufacturing*, vol. I.)

Our early statesmen after the adoption of the Constitution also were not unaware of the importance new inventions and a patent system were to play in the growth of our country. George Washington, in his inaugural address as first President, stated:

The advancement of Agriculture, Commerce and Manufactures by all proper means will not, I trust, need recommendation, but I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad as to the exertions of skill and genius in producing them at home, and of facilitating the intercourse between the distant parts of our country by a due attention to the post office and post roads. Nor am I less persuaded that you will agree with me in opinion that there is nothing which can better deserve your patronage than the promotion of science and literature.

Pursuant to the provision for patents in article I, section 8, of the Constitution, Congress enacted legislation to provide for a limited patent monopoly for inventors. The first patent act is dated April 10, 1790, and in accordance with this act, our patent system was organized.

The effect of the law was immediate. In a letter from Jefferson to Benjamin Vaughan, dated June 17, 1790—2 months after the law went into effect—he stated that—

An act of Congress authorizing the issue of patents for new discoveries has given a spring to invention beyond my conception.

From the foregoing, then, it may be observed that—

the right to patent is purely statutory, with full power in Congress to prescribe to whom and on what terms a patent shall issue, including the period for which it shall exist (*Owen v. Heimann*, 12 F. (2d) 173, 1926).

The revised and annotated edition of the Constitution of the United States of America states that the legislation based on the constitutional provision for protection of patents—

regards the right of property in the inventor as the medium of the public advantage derived from his invention, so that in every grant of the limited monopoly two interests are involved—that of the public who are the grantors, and that of the patentee.

There is a quite general, and equally erroneous, belief that the public has something taken away from it when a patentee is given a limited monopoly for his invention to use, vend, or license it exclusively. Such, of course, is not true. An invention which may be patented is something new which the public never had before, and in consideration of the inventor's disclosing his invention, the public grants him the exclusive right to use, vend, or license it for a limited time. Instead of an invention remaining a secret with the inventor, it becomes part of the common knowledge available for the benefit of society, and when the patent term has expired, everyone is free to enjoy the invention. As was stated in the case of *Waterbury Buckle Co. v. Prentice Manufacturing Co.*, 294 Fed. 930:

The inventor gets the privilege to exclude the public from its common law rights for a definite term. The public gets the advantage of a disclosure of something new, which the inventor might otherwise have kept secret.

Mr. Justice Clarke similarly stated in the case of *Beidler v. United States*, 253 U. S. 447, at page 453 that:

The source of the power to grant patents, and the consideration for granting them, is the advantage which the public will derive from them, especially after the expiration of the patent monopoly, when the discoveries embodied in them shall become a part of the public stock of knowledge.

It is of prime importance that society should have the benefit of inventions at the earliest possible moment, and when inventors know that they will be adequately protected they will not hesitate to disclose their inventions. A patent system based upon this concept would seem mutually satisfactory and beneficial to the inventor and to the public. And it is on such a concept that our patent system has been based. Yet there has been some dissatisfaction with the operation of our patent system.

Charges have been made that patents which would foster the industry and economy of the Nation have been purchased by monopolistic businesses in order to prevent the use of such inventions by competitors, and that those same monopolistic concerns maintain huge research departments for the discovery of new inventions, and that they suppress any invention which would require the scrapping of invested capital and the setting up of new machinery.

It is charged that patentees may use their patent in a manner inimical to the interests of the public, through restrictions on use and sales, infringement suits, and other devices.

It is claimed that patented inventions affecting certain industries are, by a system of patent pools and exclusive cross-licensing, made the instruments of monopolistic domination of such industries.

Charges have even been made that the patent system has been the indirect cause of unemployment, as it has stimulated the invention of labor-saving devices and machines to the detriment of labor.

Further, it has been contended that progress and research would continue even though there were no protection afforded by the patent laws.

NONUSE OF INVENTIONS

The rule would seem to be well-established today, then, that under the existing patent law the patentee has a right not to make, not to use, and not to vend his patented invention. Under the patent law he may suppress his invention for the full 17-year period.

There is, however, a limitation on this right of the patentee not to make use of his patent. An agreement to suppress a patent to restrain trade is illegal. In 1909, in the case of *Blount Mfg. Co. v. Yale & Towne Co.*, 166 Fed. Rep. 555, 559, 560, it was held that an agreement to suppress a patent to restrain trade violated the antitrust law. The following quotation is taken from that decision:

Granting that nonuse of an invention is fully within the right of the owner of a patent, it does not follow that he may by agreement bind himself to non-use, save in connection with an assignment of his letters patent. Ownership of a patent involves no obligation to use, nor does ownership of other property. Non-use ordinarily violates no law; but contracting with another, putting it in the power of another to compel one not to use is a contract in restraint of trade, designed for the purpose of suppressing competition.

While a right not to make, use, or vend the patent exists, it is questionable whether the practice of suppressing patents exists to any great extent. A distinction, of course, must be drawn between mere

nonuse and deliberate suppression of inventions. There is a valid distinction between the two which must be recognized.

In the hearings before the Committee on Patents, Subcommittee on Compulsory Licensing of Patents, House of Representatives, Seventy-fifth Congress, third session, many manufacturers and attorneys testified that it was necessary to spend many years in developing an invention before the product could be successfully put on the market. And it was necessary in many instances, they testified, to obtain a number of patents on one basic invention and to spend years in the development of the idea before a marketable invention was produced.

Some of the witnesses testified that in their belief the practice of shelving patents does exist in some degree, but expressed the belief that it was insignificant. None of the witnesses professed to be aware of definite instances of suppression of valuable patents. Substantial proof seems to be lacking if there be such a practice. Most of the witnesses believed that a manufacturer cannot afford, having purchased or developed a patent, to shelve it. There is always the incentive of the advantage in sales promotion in offering the public something new, the fear that if he does not market his invention that a similar product, not an infringement of his patent, may be secured by competing concerns and the market taken away from him.

It is true that patents are often purchased by manufacturers before they have an opportunity to examine them thoroughly and ascertain their probable value, and they are then shelved either because the article patented cannot be perfected, or because the cost of its production is all out of proportion to what the purchasing public can afford to pay. The witnesses referred to above believed that the practice is more exaggerated than real and that the general welfare is not affected adversely.

Rumors of widespread suppression of inventions are quite prevalent, but definite evidence thereof is quite lacking. There are many factors, other than suppression, which would prevent a patented invention from ever reaching the market. The 1937 report of the United States National Resources Committee on Technological Trends and National Policy, beginning on page 6, relates to this problem. It is pointed out in that report that while the death rate of inventions has never been calculated, it is very great. Reference is made to the telegraphone, an invention that recorded a conversation or music on a magnetized wire, which could be used over again after demagnetizing. Twenty-five years ago much was heard of this invention, yet today nothing is heard of it. A corporation was formed for the sale of these machines, stock in the corporation was sold generally to the public, and the machines were put into commercial use.

The same is true of the teletypesetter, the report stated, and the making of sugar from sawdust, the making of paper from cornstalks, the regulation of clocks by radio waves, and thousands of similar announcements of inventions and discoveries which have not been used enough to leave any significant social influence.

The report stated that cotton-picking machines have been announced many times in the past 2 generations, and stated that it is a fact that 900 patents have been granted on cotton-picking machines by the United States Patent Office. Reports of cures for cancer have been

given out regularly in the past several years, but the death rate from cancer is about the same today as it was 20 years ago. The slow development of television, and the cotton picker, the making of wool from cellulose and gasoline from coal, indicate the uncertainties of inventive processes.

Technical faults, complexity in operation, the ready availability of substitutes which render very nearly the same service, the problem of repair service, the cost of production and the lack of demand, and existing capital equipment that would be scrapped if the invention were used are all factors which may influence the nonuse of a patented invention. And of course in some arts the rapid evolution of improvements obsolesces earlier inventions on which patents issue.

One of the more frequent complaints against the patent system is that the patentee may use his patent in a manner inimical to the interests of the public through restrictions on use and sales, infringement suits, and as an instrument to obtain a greater monopoly. There are certain limits to the scope of the patentee's rights, however, which must be recognized. The rights of the patentee and the limitations on those rights may be ascertained from the reports of decided cases.

RESTRICTIONS IMPOSED BY THE PATENTEE IN THE USE OF THE PATENTED ARTICLE

1. BY LEASING THE PATENTED MACHINE UPON CONDITION

The rule that a patentee may not lease his patented machine and require as a condition of the lease that the lessee must operate the machine only with supplies from the lessor, extends even to the case where the supplies have been patented to the lessor either separately or in combination with the patented machine. The object of section 3 of the Clayton Act is to prohibit these tying clauses where the effect of the condition "may be" to lessen competition substantially or tend to create a monopoly. And this condition, precluding the use of supplies of a competitor, falls within the condemnation of section 3 of the Clayton Act (*International Business Machines Corp. v. U. S.*, 298 U. S. 131 (1936)).

2. RESTRICTIONS IMPOSED ON THE USE AFTER SALE

By virtue of his patent grant may the patentee impose any restrictions on the use of the patented article after he has parted with its ownership? The means by which the patentee attempts to restrict the use of the patented article to secure control of complementary goods is called a "tying clause."

Prior to the passage of the Clayton Act in 1914 it was possible to sell or license patented articles with a tying clause requiring acquisition of such complementary goods from the patentee. The Clayton Act, however, prohibits this practice and this law has been applied by the Supreme Court in *Motion Picture Patents Co. v. Universal Film Mfg. Co.*, 243 U. S. 502, in *Carbice Corporation v. American Patents Corporation*, 283 U. S. 27, and in *Leitch Mfg. Co. v. Barber Co.*, 302 U. S. 458.

But in the case of *General Talking Pictures Corporation v. Western Electric Co. et al.*, 304 U. S. 175, the right of the licensor to restrict the licensee as to the field in which the licensee could sell licensed goods

was upheld. On the ground that the point of law involved in this last suit presented a question of great public importance, the Department of Justice filed a brief on behalf of the United States, on rehearing, as a friend of the Court, asking the Supreme Court to rule that it is illegal for the owner of a patent to license the patented article with a restriction that it be used only in a prescribed field. The Supreme Court refused to so rule.

3. RESALE PRICE MAINTENANCE

A patentee may want to restrict the use of his patented article by preventing the resale of the article below a certain price. The attempt to fix the resale price is generally known as "resale price maintenance." This must be distinguished from "price fixing," which term connotes a combination of competitors who agree illegally to sell their respective products at a specified price, there being no privity of ownership in the article, as in the case of resale price maintenance. Resale price maintenance was recognized as a valid exercise of the patent monopoly in *Victor Talking Machine Co. v. The Fair*, 123 Fed. 424, decided in 1903. A number of lower Federal courts preceding and subsequent to this decision upheld this right in the patentee. In 1913, however, the Supreme Court in the case of *Bauer & Cie v. O'Donnell*, 229 U. S. 1 (1913), declared an attempt to maintain resale prices by affixing a notice to the patented article is illegal. This was subsequently affirmed in *Straus v. Victor*, 243 U. S. 490 and *Boston Store v. American Graphophone Co.*, 246 U. S. 8.

There is one method to avoid the rule of the foregoing cases, however, which has been considered and approved by the Supreme Court in *U. S. v. General Electric Co.*, 272 U. S. 476, decided in 1926. The General Electric Co. marketed incandescent bulbs to distributors who were called agents, and who were instructed to sell the bulbs at fixed prices. The Supreme Court held this arrangement was legal—that it was an agency relationship irrespective of the fact that many of the risks incident to ownership were shifted to the distributors by the General Electric Co. Under this decision the General Electric Co. may control prices of its own incandescent bulbs on the retention of ownership theory.

There is nothing in the testimony presented to the Temporary National Economic Committee that indicates any licenses have been granted by any patent owner in which there was an unwarranted limitation in the license with respect to the price at which the licensed product may be sold. With the exception of Dr. Bush of the Carnegie Institution, all the witnesses stated that the licenses which they had granted or received contained no price restrictions. When asked (Record pt. 3, p. 891) to "explain a situation under which price control is a necessary requirement in introducing an idea into industry," Dr. Bush replied:

It is a part, of course, of the situation that I just mentioned, where the introduction of an invention requires a large initial investment. The funds for that can be secured only if there will be a speculative profit, only if the individual who puts up the money can expect that if the gamble is successful he will reap considerable profits. Now that procedure of putting the thing into use can occur either by the new company itself manufacturing or licensing for manufacture. If it licenses a single company for manufacture, it can give an exclusive license and collect a royalty. However, suppose that it licenses two companies. In order that there shall be at the outset a complete control, it is necessary that price restriction also

be superimposed, otherwise competition will be produced between those units and the speculative profit which is necessary will not occur. The inclusive feature is necessary in order, in many cases, to bring the device into use, and there are circumstances, therefore, where price control is necessary in order to preserve the exclusive feature.

It is believed that price restrictions in American patent licensing practice are the exception rather than the rule. In *U. S. v. General Electric Co.* above referred to, Chief Justice Taft, delivering the opinion of the Court, stated:

When the patentee licenses another to make and vend and retains the right to continue to make and vend on his own account, the price at which his licensee will sell will necessarily affect the price at which he can sell his own patented goods. It would seem entirely reasonable that he should say to the licensee, "Yes, you may make and sell articles under my patent but not so as to destroy the profit that I wish to obtain by making them and selling them myself." He does not thereby sell outright to the licensee the articles the latter may make and sell or vest absolute ownership in them. He restricts the property and interest the licensee has in the goods he makes and proposes to sell.

* * * The owner of a patent article can, of course, charge such prices as he may choose, and the owner of a patent may assign it or sell the right to manufacture and sell the article patented upon the condition that the assignee shall charge a certain amount for such article.

This decision and the above-quoted statement of Dr. Bush bring out the real substance of price-control provisions in patent licenses, that is, that the owner of a patent has the right to sell his products at whatever price he chooses so long as he does not otherwise violate the law. If it is in the public interest for such an owner to permit a second party to have access to the use of his patents and thus to compete with him, he should be permitted, in protection of his own property, to restrict such licensee as to the price at which he may sell his product in competition with the licensor. If the right to thus protect himself is taken away from the owner of the patent, may the patentee not decide that he will not license another? If so, the complete monopolistic use of the patent by the owner will thus be preserved.

4. RESTRICTIONS IN RESPECT OF PRODUCTION

With respect to production limitation, very much the same condition may prevail. The owner of a patent, having the exclusive right to control production under it, may be willing to permit a competitor to produce under the patent with respect to a portion of the demand, if he can be assured, by a condition of the license, that his competitor will not overrun his own market and enter into destructive competition with him. It seems reasonable to expect that prohibition against a provision of this character in a license would result in the long run in fewer licenses, and in the restriction of production under many patents to the owner or exclusive licensee.

5. RESTRICTIONS IN RESPECT OF PURPOSE OR MANNER OF USE

The subject of purpose or manner of use was not dealt with in the evidence before the Temporary National Economic Committee except for certain testimony indicating that certain inventions may have wide use in different unrelated fields.

In the above-referred-to brief before the United States Supreme Court, in *General Talking Pictures Corporation v. Western Electric Co.*, supra, the Department of Justice argued, unsuccessfully, that a

restriction as to use "escapes the orbit of the rights of the inventor." The Court, speaking through Justice Brandeis, held that such restriction was "reasonably within the reward which the patentee by grant of the patent is entitled to secure."

It certainly would appear to be in the public interest to encourage the holder of a patent, who may want to use it exclusively within a limited field, to permit others to use it in other fields upon such division of the entire field of the patented invention as the owner and the prospective users may be able to agree upon. For instance, if a manufacturer of woollens should procure a patented device which might be used for general weaving, he should be free to license its use to a linen manufacturer without giving that manufacturer a license to weave woollen goods. Such a license should not be treated as restraining competition because it would be addressed only to goods manufactured by the patented process and these lie within the field of the monopoly granted by the patent itself. It is difficult to see how a denial of this right to license for limited use can result generally in unlimited licenses to others in all fields. All too frequently, on the contrary it is to be expected that it will result in restricting the use of the invention to the field occupied by the patent owner or exclusive licensee. If the patentee cannot control the field of use, probably he will find it more profitable to withhold entirely the use of his invention in byproduct fields rather than take the chance of unintended competition in his own chosen enterprise.

6. RESTRICTIONS AS TO GEOGRAPHICAL AREA

Limitation as to the geographical area within which an invention may be used by a patent licensee is of very similar character. Many inventions are of a character which, for financial or other reasons, do not lend themselves to national operation by the patent owners. It would appear to be in the public interest to have such patents used as broadly as possible and not to limit their use to the owner or exclusive licensee of the patent in his own locality, as would be the result if this recommendation were adopted. This is another instance in which limitation upon the right to license will mean limitation upon the broadest use of patents, and therefore an increase in the monopolistic aspect of the patent privilege.

INFRINGEMENT SUITS AND THREATS OF INFRINGEMENT SUITS

Litigation over patent rights is a very expensive proposition, and charges have been made frequently, and there is much foundation for the charges, that some patentees will bring infringement suits against competitors, either to drive them from the business field or to exhaust their resources so that it is impossible for them to compete.

That threats of infringement suits not made in good faith represent unfair competition has long been recognized by the courts. The Federal Trade Commission also has issued many cease-and-desist orders against such practices.

There have been a number of recent cases involving infringement of patents wherein the infringing party has attempted to plead as a justification for the infringement the fact that the owner of the patent maintains a monopoly in violation of the anti-trust laws. Also suits have been brought to obtain a license to use a patent, the com-

plainant asking the court to order the defendant patentee to grant a license because he maintains a monopoly through a system of patent pools and cross licenses.

PATENT POOLS

There is another aspect of the licensing of patents which should be discussed. There is a prevalent belief that through a system of cross-licensing and patent pools "big business" has made patents instrumentalities of the monopolistic domination of business.

Here again a careful distinction should be drawn between rumors of abuses and proven abuses. Attention will be directed to the beneficial aspect of patent pools and cross-licensing agreements; and the evils said to accrue from the patent pool and cross-licensing agreements will be pointed out.

In order to circumvent the existence of overlapping inventions and patent deadlocks, and to avoid ruinous litigation over infringement, many of the large industries have formed patent pool agreements. These pools may take a variety of forms, the simplest type being an agreement between companies to permit the use of all patents held by any of them. Other types are those achieved through merger, purchase of a competitor, patent pools formed through trade associations, and the complex form of patent pool achieved by means of a holding company whose function is the holding and leasing of patents.

In the report of Charles A. Welsh, Jr., economic adviser to the Committee on Patents, House of Representatives, based upon the investigation of patent pools and cross-licensing agreements conducted relative to H. R. 4523, Seventy-fourth Congress, 1935, the following statement was made:

The extent of patent pools and cross-licensing agreements in American industry is very largely coordinate with the extent of mechanized industries in which patented inventions play a part or which are based on so-called basic patents, such as, for instance, the communication industries, or the electrical industries. In all of the following major industries which the committee has included within the scope of its activities some form of patent consolidation are in use in an attempt to circumvent the existence of patent deadlocks and overlapping inventions: Automobile, agriculture machinery, aviation, building equipment and supplies, chemicals, communications, electrical-equipment industries, food industries, glass, machinery and machine equipment, mining, munitions, oil, office equipment and machinery, paper, radio, railroad equipment, rubber, steel, scientific instruments, utilities.

In each of these industries the particular type of patent consolidation adopted is designed to meet the needs of the individual type of production involved and the general market conditions characteristic of that particular industry, which indicates the flexibility of patent consolidation as an instrument

In defense of patent pools the argument most frequently advanced is that under conditions of modern industry with its rapid development and constantly changing improvements it is impossible to conduct manufacturing without infringing some patent. Furthermore, one company may develop a patent but need rights to use patents owned by other companies to perfect the invention and place the finished commodity on the market. In the report of the Federal Trade Commission on the Radio Industry, pages 24 to 28, it is stated that Maj. E. H. Armstrong, radio inventor and adviser to the Radio Corporation of America, in his testimony before the Federal Trade Commission stated it would have been impossible to manufacture any kind of workable apparatus without the licenses owned by com-

peting companies. Commander E. H. Loftin, who had made a special study of cross-license agreements as they affected radio activities of the United States Government testified that without access to the patents of competing companies, radio apparatus could not have been developed by any one company. New patents are valuable in this field only when used in connection with other patents already developed.

Litigation in patent infringement suits is a very expensive proposition, and when patent pools are formed to avoid such litigation, and the antitrust laws are not violated thereby, such a course would seem to be wise. Typical of such a situation is the oil-cracking pool.

The Standard Oil Co. of Indiana, the Galena Signal Oil Co. of Texas, and the Standard Oil Co. of New Jersey each developed methods of cracking gasoline, and they were involved in litigation when they came to an agreement whereby each company recognized the validity of the patents held by the other, and granted one another irrevocable and nonexclusive license to use its patents in its plants or those of subsidiary companies. They agreed to divide certain royalties equally, thus tending to discourage competition between the cross-licensees to a certain extent. This agreement was held legal in the case of *Standard Oil Co. v. U. S.* (283 U. S. 163 (1931)), the Court concluding that since cracked gasoline was only 26 percent of all the gasoline produced, the pool could not possibly control prices. In this case the defendants contended that the pooling agreements assailed by the Government related solely to the issuance of licenses under their respective patents; that the granting of such licenses, like the writing of insurance, is not interstate commerce; and that the Sherman Act was therefore inapplicable. If such contention had been upheld, of course, pooling agreements would not be within the purview of the antitrust laws. But Mr. Justice Brandeis stated in reference to the defendant's contention that:

This contention is unsound. Any agreement between competitors may be illegal if part of a larger plan to control interstate markets. *Montague & Co. v. Lowry*, 193 U. S. 38; *Shawnee Compress Co. v. Anderson*, 209 U. S. 423. Such contracts must be scrutinized to ascertain whether the restraints imposed are reasonable under the circumstances, or whether their effect is to suppress or unduly restrict competition. *Chicago Board of Trade v. U. S.*, 246 U. S. 231, 238; *Paramount Famous Lasky Corp. v. U. S.*, 282 U. S. 30, 43.

The facts of the *Standard Oil case*, a portion of the opinion of which is quoted above, are valuable in that they illustrate the benefit of patent pools in reducing the danger of patent infringement suits, which are costly, benefit no one, and often block technical advancement. The opinion is also valuable in that the Supreme Court stated therein that patent pool agreements violate the antitrust laws when their effect is to suppress or unduly restrict competition.

In the *Standard Oil case* the Government conceded that it was not illegal for the primary defendants to cross-license each other and the respective licensees; and that adequate consideration could be legally demanded for such licenses. But the Government contended that the insertion of certain additional provisions in the agreements rendered them illegal—that is, the inclusion of provisions for division of royalties constituted an unlawful combination under the Sherman Act because such evidenced an intent to obtain a monopoly. In reference to that argument the Court stated:

This contention is unsound. Such provisions for the division of royalties are not in themselves conclusive evidence of illegality. Where there are legitimately conflicting claims or threatened interferences, a settlement by agreement, rather than litigation, is not precluded by the Act. Compare *Virtue v. Creamery Package Co.*, 227 U. S. 8, 33. An interchange of patent rights and a division of royalties according to the value attributed by the parties to their respective patent claims is frequently necessary if technical advancement is not to be blocked by threatened litigation.

In general it may be stated that an attempt to secure control of markets by means of cross-license and pooling agreements is in violation of the antitrust laws where its effect is to impede the channels of trade and to substantially lessen competition. The "rule of reason" has been followed by the Supreme Court in determining whether such agreements are in violation of the antitrust laws.

There is considerable difference of opinion as to the effect of patent pools on the prices charged the consumer for patented commodities. Opponents of the patent pools contend that the high cost of royalties makes sales prices high. Those who favor patent pools contend that without patent agreements the cost of constant litigation would eventually be borne by the consumer through higher prices for the commodities.

The automobile industry affords a good example for those who contend that patent pools are not only necessary but that they tend to reduce the prices of commodities. The National Automobile Chamber of Commerce was formed in 1914 by 136 automobile companies which contracted to exchange their patent rights. By these license agreements, beneficial patents have been open to all members of the association, and an improved automobile has been the result. And the price of automobiles has been steadily reduced—so much so that the automobile today is considered a necessity rather than a luxury. There have been no infringement suits between the members of the association.

There are conflicting views as to the validity and desirability of the patent pool in the airplane industry. In his testimony before the House of Representatives Committee on Patents, Seventy-fourth Congress, on H. R. 4523, a bill providing for the recordination of patent pooling agreements and contracts with the Commissioner of Patents, Brig. Gen. William Mitchell, who was in charge of aviation in 1915, served as commander of air forces of American Expeditionary Forces, and later was made Director of Military Aeronautics in this country, and Assistant Chief of the Air Service, testified that as a result of the patent pool in the airplane industry we have inferior planes, unnaturally high prices, and monopolistic domination of the market in that industry.

On the other hand, however, there is the report of the Federal Aviation Commission of January 1936. The Commission was appointed by the President to examine our aviation operations, and it made the following statements with reference to the patent pool in the airplane industry:

It has been alleged with great bitterness from time to time in testimony before us, as well as previously before many Congressional Committees and other bodies, that the Manufacturers Aircraft Association creates a trust or monopoly and that its effects are wholly evil and restrictive of invention. We are unable to discover any substantial foundation for such complaints, nor can we discover that those making them proceed from any very thorough knowledge of the nature of the cross-license agreement or the manner of its operation. So far from being a

monopoly, the Manufacturers Aircraft Association seems to be the very antithesis of monopoly. It seems to have been designed and in fact to operate to prevent any possibility that the holder of a patent might restrain the normal progress of development or the flow of commerce by the exploitation of his patent rights.

Admittedly patent pools offer many opportunities for abuse; the alleged protection of patent rights may be made a cover for practices not related to patents. But any such plan is illegal under the Sherman Act, if part of a plan to control interstate markets unreasonably. The plan is illegal if its effect is to suppress or unduly restrict competition. And the Supreme Court stated in the *Standard Oil case* that because of this danger the agreements should be scrutinized closely.

The effect of the patent pool on the manufacturer not participating therein, and upon the individual inventor, afford equally difficult problems.

Complaints are made that it is difficult for a new manufacturer to break into a field covered by the patent pool—that licenses to use patents will not be granted him, and that threats of infringement suits soon force such a venturesome businessman from the field. Of course, it is an inherent right in every patentee under the law to refuse to license his patent, and to sue for its infringement. Whether the refusal to license or the suit for infringement of a patent comes from an individual patentee, or from a group of patentees who have formed a patent pool, it is a right they have to refuse to license or to sue for infringement.

Throughout the course of this discussion reference has been made to supposed defects in our patents system—defects which are said to make the patent an instrumentality in the monopolistic domination of business, which enable the patentee or a purchaser of the patent to suppress the invention, or use the patent in a manner inimical to the interests of the public. Various remedies have been suggested to relieve against these supposed defects. Many changes have been recommended in the past. The most frequently recurring suggestions have been those for a law to provide for the compulsory licensing of patents, those to establish a separate court of patent appeals, and those for the complete abolition of the patent statutes. Other less substantive changes, such as improvement of interference proceedings, arguments for fewer and better patents, for the Government to bear the cost of patent litigation for indigent inventors, have been recommended from time to time.

COMPULSORY LICENSES

The question of compulsory licensing of patents is an extremely controversial one. A compulsory working provision to secure patent protection was first incorporated in the French patent law of 1791, and has been adopted in principle by practically all of the principal patent systems except that of the United States. (See A. J. Michel, *Introduction to the Principal Patent Systems*; Brooklyn, N. Y., 1936.)

Various types of compulsory licensing bills have been recommended in Congress—bills providing for the compulsory licensing of patents after 3 or 5 years exclusive use by the inventor, and bills providing for the compulsory licensing of patents in the event there has been no satisfactory working of the invention for a stated number of years. While such legislation has been proposed in Congress many times, it has always evoked a storm of protest from inventors, manufacturers,

lawyers, patent bar associations, and representatives of the Patent Office. And attempts to enact such legislation have always in the past been abandoned.

Many hearings have been held by congressional committees to determine the advisability of such legislation—hearings on the Oldfield bill of 1912, again on a similar Oldfield bill in 1914, the hearings on the Stanley bill in 1922, and the hearings on the McFarlane bill in March of 1938. At all of these hearings patentees, inventors, and manufacturers have been practically unanimously opposed to such legislation on the grounds that it would discourage invention, and that it would favor the large corporations over the smaller corporations and individuals. Witnesses testified that it takes many years to perfect the invention even after the patent is granted—and before the issuance of the patent often years are spent in research and experimentation to develop the idea. Often such research, experimentation and expense proves to be a waste as the invention is not worth while. To permit a corporation or an individual to obtain a compulsory license from the patentee, or his financial backer to whom he has assigned his patent, would be manifestly unfair the argument runs, since the person seeking the license does not share in the expense of unsuccessful research and development. There is a belief that business would be reluctant to undertake the risk of promotion of new inventions if someone else could step in and share the profits if the idea were a success. One witness in the course of the hearings on the McFarlane bill stated he believed the compulsory license would penalize the successful inventor in the same way that the undistributed profits tax penalized the successful business, and the enactment of the McFarlane bill would have the same deleterious effect on many of our businesses that the undistributed-profits tax had.

Hon. Thomas E. Robertson, former Commissioner of Patents, has expressed his opposition to all bills which would provide for compulsory licenses for patents. The American Bar Association has gone on record as opposing compulsory licensing bills, and the American Patent Law Association has compiled a pamphlet containing their report in opposition to the McFarlane bill, together with excerpts from the record against previous proposals for compulsory licensing of patents.

The Honorable Conway P. Coe, Commissioner of Patents, in his testimony before the House of Representatives Committee on Patents holding hearings on a bill providing for the recordation of patent pooling agreements and contracts with the Commissioner of Patents, in 1935, expressed his opposition to any bill which would require the compulsory working of patents. Commissioner Coe has also stated that when changes are made in foreign patent laws it is always in the direction of the American patent law.

Mr. Lawrence Langner, member of the firm of Langner, Parry, Card & Langner, international patent lawyers, testified in 1935 and again in March 1938 before the House Committee on Patents in opposition to compulsory license laws, stating they had not worked successfully in other countries, and would be harmful in operation in this country. Mr. Langner stated that compulsory license laws had not uncovered any suppressed patents in other countries and stated that under the Canadian patent law which provided for compulsory licenses, only nine applications for compulsory licenses were decided

upon over an 11-year period from 1925 to 1936, and that of these nine five were granted and four were refused.

The Science Advisory Board's committee to study the patent system at the request of the Secretary of Commerce in 1935, recommended that no system of compulsory licensing be introduced at this time.

There is an imposing array of arguments and authorities in opposition to compulsory licensing of patents. Those listed above are just a few of the many. Whether there is a need for compulsory licensing, and whether compulsory licensing would relieve against the supposed defects suggested, is questionable. The consensus of opinion of those who would be affected by such legislation is that it would discourage invention and new enterprise, and would favor the large corporation over the small corporation and the individual.

It is my view that it would be unwise to compel the compulsory licensing of patents.

PATENTS INCREASE EMPLOYMENT

Occasionally one hears arguments in favor of the complete abolition of the patent statutes on the grounds that inventions result in unemployment. One need only to refer to the automobile industry, the motion-picture industry, the radio industry—practically all industries in the United States where invention plays a part—to realize the fallacy of this argument. Most inventions create new goods and new services for the public to enjoy. Very few inventions have as their primary purpose the displacement of labor.

It hardly seems necessary at this late stage of the industrial history of America to submit arguments in support of inventions, but reference might be made to an article written in 1932 by Joseph V. Meigs, an attorney and a professor of science at the Massachusetts Institute of Technology. The article is entitled "Panics, Prosperity, and Patents," and appears in volume 66 of the *United States Law Review*, beginning on page 243. It states fairly the influence of patents and inventions on prosperity.

The following material is quoted from that article:

Fifty-eight years ago this Spring, the depression of 1873 was in full swing. Three hundred steel mills were cold. Insolvency was the order of the day. Three million men were unemployed, of whom five hundred thousand had been engaged in railroad construction. The vision of a mighty empire bound together with bands of steel rails and covered with latticeworks of railroad ties had been glimpsed, but efforts to realize it had gone ahead too fast; and, as is always true when dreams fall short of realization, the reaction which followed was heightened by deep despair and a gloomy sense of failure and of the futility of effort. Numerous railroads went into receivership. Thousands of commercial failures stampeded the general rout of the army of business. The color of the picture was just as black then as now. Nevertheless a period of great prosperity was in the making.

A number of new inventions were being brewed in the kettles and vats of American and foreign genius and from these vessels there was soon to pour forth a flood of new business life and activity. Notable among these and at an advanced commercial stage in the spring of 1874, was the Bessemer-Kelly process of making steel which during the preceding twenty years had passed through its period of "gestation" and was now fully perfected. The process constituted an epoch-making pioneer invention. It comprised blowing air through molten pig iron, thereby oxidizing impurities and permitting the manufacture of steel in large quantities at a greatly reduced cost. The first American steel rails had been rolled in Chicago in 1865.

The industrial development of the Bessemer process, far from being destroyed by the 1873 crash, played a prominent part in reviving trade. The cheap steel provided by the Bessemer process pointed the way out of the depths. Railroads already built had to be made over with steel instead of iron, and Bessemer steel began to be produced in large quantities for rails and locomotives. In the twenty years following the 1873 crash over 100,000 miles of steel railroad were built, mostly, if not all, with Bessemer steel. In the same period, American inventive genius produced other inventions of vital importance, including Bell's telephone (1876), Edison's phonograph (1878), Hyatt's reinforced concrete (1878), Edison's electric lamp (1880), and many others. Westinghouse had been granted a patent for his air brake in 1869.

From 1874 to 1892 there was a steady and rapid increase in invention and business activity. The national wealth increased roughly 100 percent during that period, that is, from about \$35 billion in 1873 to about \$70 billion in 1892. A substantial portion of this increase was embodied in the application of the inventions referred to and others not mentioned. There cannot be much doubt of the influence of invention upon the period of prosperity following the 1873 crash. The telephone, of course, became a necessity as soon as its technical and commercial success was fully achieved. The public always buys, uses, or invests in a real necessity. The rapid growth of the telephone business in this period is testimony of the part it played in doubling the national wealth during the 1873-1893 period.

The scene shifts. It is early spring in 1921, forty-eight years later. This time the whole world has been through the artificial expansion and orgy of spending incident to a war carried out on a gigantic scale and the deflation of the post-war period of prosperity is ahead. The cumulative inventions of Marconi, De Forest, Alexanderson, Fessenden and others had shown that human voices could readily be transmitted through the ether. Amateurs had begun to build radio sets. The idea was so inspiring that the building of home-made radio sets had become a national hobby, but it was somewhat difficult to get the parts. Harding had been elected President in the fall of 1920 and the Westinghouse Company broadcast from Pittsburgh the inaugural ceremonies in March, 1921. The success of that broadcast seemed to mark the starting point of a great public interest in radio broadcasting and reception. In the fall of 1921, station KDKA was established in Pittsburgh; soon other broadcasting stations were equipped. Orders began to pour into electrical companies for accessories with which to build radio receiving sets. Vacuum tubes could not be made fast enough. By the fall of 1924 a new industry, radio, had been born. Business was again on the upgrade, the long upgrade that led to the greatest era of prosperity that the world ever saw—culminating in the crash of 1929.

We are now in the throes of that crash and the present depression seems to imprison business behind impenetrable walls of resistance to recovery. Markets are glutted with familiar things. On the one hand, strong boxes and savings banks are flooded with money. On the other, there are idle plants, large stocks of unsold goods. The best salesmen in the world are doing their utmost to bring the money to the commodities and the commodities to the money, and effect an exchange and movement of both, with relatively little success.

There is no single, simple answer to this stalemate, but new ideas, new products, new processes, new industries, in a word, inventions—these things have played a vital part in previous periods similar to the present one—have been one of the forces in boosting us out of previous "sloughs of despond"—and will do the same now. * * *

It is therefore, the joint effect of invention and our patent system (coupled of course with capital) that has caused the United States to advance its material welfare so rapidly. Without invention the patent laws would have nothing on which to operate. Without sound patent law, inventions, no matter how important, would not attract the capital necessary to develop and commercialize the invention. Only those who have been "through the mill" realize the time, effort and money it is necessary to expend upon an invention to nurture and develop it from its birth until it blooms forth as a going business. The development of an invention is a business speculation and frequently a technical or scientific speculation as well. Anywhere from \$5,000 to \$5,000,000 may be required. The time involved is still more indefinite. In chemical research it has been said on good authority that a period of about 14 years usually elapses between the first experiments and the first dividends of a business founded on the result of the research, assuming it to be successful.

Who would be willing to devote large sums of money and a substantial portion of his span of life to the development of an invention having a purely commercial aspect, if at the end of that time he knew that anyone could step in and use the fruits of his labor and industry without paying any consideration. Such a state of affairs would concededly be so unjust, so inequitable, that it fairly could be characterized as monstrous. It is just that which the patent laws are intended to prevent. Centers of research actively devoted to purely altruistic ends are, of course, not within the purview of the present discussion.

The fact appears to be that most of the machinery in use today is not so much labor-saving as labor-creating or labor-serving. It enables men to work at tasks that never would have been attempted otherwise, and since modern machinery appeared many great industries have sprung into existence that never could have existed without machinery. The relation of the effect of machinery on employment is thus stated by the Ford Motor Co. in 1935:¹

For some years the Ford Motor Company could only rely on its own experience in judging the effect of machinery on employment. One year when the Company spent four million dollars for machinery, its employees increased by 20,000 men, and the pay roll by 48 million dollars. Another year when the Company spent nine million dollars for machinery, its employees increased by 40,000 men, and its pay roll by 88 million dollars. In another year when the Company invested 10 million dollars in machinery, employment increased by 37,000 men, and the pay roll by 76 million dollars. That was the invariable experience—the more machinery, the more men.

R. A. Millikan, Nobel prize winner, in a paper delivered in 1934 said:²

But now comes the question upon which the public mind has become much confused because of men who do more talking as I think than they do thinking. These men say "science is responsible for unemployment and therefore for the depression. Science through labor-saving devices is all the time destroying jobs by means of which men live." The answer to this charge is that it is true, but like most delusions it is only half the truth and therefore fundamentally false. The other half is that every labor-saving device creates in general as many, oftentimes more, jobs than it destroys and the new jobs are in general better for the individual affected, and much better for society as a whole than the old ones. Labor-saving devices do not in general destroy the jobs that demand intelligence. They cannot do it. The heavy, grinding, routine, deadening jobs are the ones that machinery destroys. In a word, the world's drudgery that used to be done by human slaves is now done by soulless, feelingless iron slaves, and the human is freed for the more interesting jobs of building, running and keeping in order the machines of his creation, or of rendering the public service which the existence of these machines has made necessary. Even if these occupations do not employ all the displaced labor the rest of it ministers to the educational wants that society can now embark upon because of its increased economical well being.

* * * * *

Taking the long range view, not the short range one, I have no hesitation whatever in saying that there is no such thing as technological unemployment. By what authority do I say that? By the authority of the official census of the United States. This lists every decade the percentage of the population "gainfully employed." This was 34% in 1880 and almost exactly 40% in 1930—a depression year—and it has shown a steady increase decade by decade, save for a negligible drop from 1920—when war conditions were still on—to 1930. In other words in this precise period in which science has been applied most rapidly to industry the percentage of our population living by means of jobs has continually increased.

Karl T. Compton, chairman, American Institute of Physics; president, Massachusetts Institute of Technology; chairman of the Science Advisory Board, in a paper delivered in 1934 said:³

¹ "Machines and Jobs," Radio Broadcast, December 1, 1935.

² At a joint meeting of the American Institute of Physics and New York Electrical Society on February 22, 1934.

³ At a joint meeting of the American Institute of Physics and New York Electrical Society on February 22, 1934.

The idea that Science and Invention take away jobs, or in general are at the root of our economic and social ills, is contrary to fact.

* * * * *

They [New York Electrical Society and the American Institute of Physics] do not, of course, hold that scientific and technical advances have not brought difficulties, like social growing pains. But they strive to prevent us from killing the goose that lays the golden eggs, just because some of these eggs happen to be tarnished. They would advocate careful attention to polishing the eggs, and encouraging the goose to lay more of them. In other words, they advocate intelligent and effective attention to remedy such social and economic difficulties as have accompanied the advance of science, and at the same time they advocate the further advancement of science and its applications for human welfare just as vigorously as possible. They do this because the effects of science on human welfare are preponderantly good and beneficial.

* * * * *

We will immediately admit that technological advances frequently result in labor-saving devices which throw large numbers of men and women out of work. This is distinctly unfortunate. Its evil effects can be mitigated by wise handling of these new devices; as, for example, the American Telephone and Telegraph Company has handled its introduction of automatic switching so as not to throw employes out of work.

But the other side of the picture is immensely more significant in that the major result of science is the creation of entirely new industries which cater to new human desires, and which not only create a multitude of new jobs but which increase the per capita productiveness of men so as, first, to permit of an increasing population which is not limited by starvation and misery and, second, to reduce the hours necessary for men to labor to produce their necessities, and in this way to give them their opportunity to appreciate and experience some of the better opportunities of living which formerly were available only to those of wealth or of politically favored position.

Justin W. Macklin, First Assistant Commissioner United States Patent Office, has an article in Nation's Business for January 1940 in which he concludes—and I understand that he has investigated the subject for 20 years—that the machine creates instead of destroys jobs; and quotes the United States census figures to show the increase in percentage of those gainfully employed and particularly in manufacturing. He discusses the situation in many industries, always reaching the same result.

The telephone figures are impressive as they show that whereas dial telephones in the Bell system increased from 2.7 percent in 1921 to about 32 percent in 1930, telephone calls per month more than doubled in the same years, and telephone operators increased from 190,000 in 1920 to almost 249,000 in 1930. Telegraph and telephone linesmen almost doubled in the same period and Mr. Macklin says that the Bell officials state that their employees had increased by almost the same ratio since the 1930 census.

In the steel industry the continuous mill for producing steel sheets and strips was introduced less than 12 years ago and was bitterly attacked by the critics of technology. It appeared that a crew of 6 men could turn out 446 tons of tin plate in an 8-hour day. A crew of 5 men on the old style hand mills turned out 10 tons in 8 hours. Twenty-six of these machines appeared to have eliminated 85,000 jobs; and yet the editor of Iron Age stated on January 15, 1939, in an article in the Detroit Sunday Times:

At the time of the introduction of this phenomenal machine (the continuous mill) the usual predictions were made as to the number of workmen it would displace. Yet in the past ten years, employment in companies which operated continuous mills increased 28%. If we trace the effect of employment in the company and town where the continuous mill was first introduced, we get some

interesting results. We find that the population, employment and wages have more than doubled in that short time.

The figures showed that because of the development of the continuous mill and other technological practices the use of steel in the United States increased from 2,600 pounds a person in 1900 to 16,800 pounds in 1935; and that employment in the steel industry has risen from approximately 150,000 60 years ago to approximately 500,000 today. It would appear that the men displaced by the continuous mills had not been discharged, but were absorbed in other phases of steel manufacture, along with additional help made necessary by the increased production that the continuous mills made possible.

In February and March 1936 hearings were held before a Subcommittee of the Committee on Labor on House Resolution 49 dealing with an investigation of unemployment caused by labor-saving devices in industry, Hon. John Lesinski presiding. The following is quoted from the testimony of Mr. A. F. Hinrichs, Acting Commissioner, Bureau of Labor Statistics, Department of Labor (pp. 71, 72):

Mr. LESINSKI. In speaking of policy here is a question: We have had others testify that many favor curbing machinery, either by taxation or suppression of patents, or some other legal measures. Others contend that we ought not to do it, that it would be futile, and that we should develop ways and devise means, legal and lawful means, to force machinery to work not only for those who operate it and own it, but also for those whom it displaces. Which of these two methods would you favor, curbing machinery by taxation or suppression of patents, or finding or devising methods to force it to work for those it displaces? Some call it communism, by the way. I wonder if it is communism or just common sense. What do you think?

Mr. HINRICHs. Mr. Chairman, it is a mistake to treat the machine as an enemy. To do so is to give the machine a personality it does not possess. Some machines can only be put to socially harmful uses; for example, the gun, Big Bertha. Some devices may be used either to help or hurt man, as the airplane in peace or war. But in general the machine represents man's conquest over nature. It is our only way of saving labor and of raising the material level of living. There is nothing good for a man's soul or body in staggering under a 300-pound load that can be handled by a crane. Why should children starve in the face of the low yields of primitive plowing, when tractors make deep plowing possible? It is certainly desirable to escape to higher levels of living through the use of cheap books. I'm not willing to give up the radio nor to discourage science from devising new instruments of enriching life in the future. There is nothing fine in degrading man to the levels of the overworked beast of burden, nor in halting his further conquest over nature. Taxes on machinery or suppression of patents would tend to halt the advance.

The fault is not with the machine nor with the men who perfect machines. The fault is that we have not learned to avail ourselves fully of the opportunities that only the machine makes possible, though it must be noted that substantial progress was made in the last 150 years in raising the level of living. Shortcomings in the use of the machine represent shortcomings of social and economic organization.

From a purely temporary and short-run point of view there are two schools of thought. As a theoretical proposition it is conceivable that mechanical progress may take place so rapidly as to result in a falling standard of living. I regard that as a hypothetical situation and introduce it merely as a necessary qualification to my generalized answer to your question.

As a matter of personal opinion I believe that one of the most pressing problems facing our leadership is to assure itself that there be established conditions that guarantee, as well as may be, that the machine may be used so that we may fully exploit its possibilities and so that its benefits will accrue to all the people. The benefits that accrue from improvements in production ordinarily flow to one group; the costs are borne by those whose skills are made obsolete or who lose employment. We should expect to make provision for those to whom the machine brings the costs. Preferably such provision would be made by opening new opportunities for the employment of the labor released or by efficiently

utilizing the leisure made possible. At the very least there should be adequate financial provision for those displaced until they can be employed.

I take it that devising means to this end is the function of the Congress, and that you do not want the research agency that is furnishing the facts on the extent and character of technological development to be biased by commitment to the specific means to be employed.

Mr. LESINSKI. Thank you. Your answer, notwithstanding its unbiased generalities, is quite clear, sensible, and harmonizes with my views.

Many studies appear to support the conclusions that generally the effects of technological developments upon employment are that jobs increase faster than population and that employment is nearest normal in most highly mechanized industries. That growing occupation added more new workers than those lost in vanishing occupations. That the great majority of all machines invented are labor-serving rather than labor-saving; and that workers are in greatest demand where most machines are installed. That machinery has raised the earning power of labor, and that high standards of living are attainable only through increased production by the use of machinery.

The conclusion has been reached by those who refute the contention that technology is responsible for the unemployment problem: that unemployment will not be cured by prohibiting or impairing the functioning of the machine. It can, however, be cured by research and invention supporting new industries and ventures and encouraging the flow of capital into new and untried fields.

Mr. Macklin in his paper above referred to stated (with respect to the period between 1900 and 1930):

Those three decades saw the United States become the greatest manufacturing country in the world, and the most prosperous. This prosperity can be traced directly to the introduction of the so-called labor saving machine. It created millions of new jobs, developed numerous new industries, raised wages, and gave us a living standard that makes the average salaried American a millionaire by comparison with workers in many foreign nations.

But the technological advancement that brought this prosperity could not have been achieved but for the United States Patent Office. Few persons realize that our patent system, even more than the machine, is chiefly responsible for the tremendous growth of wealth in this country. Without the patent system, and the protection and cooperation that it affords, few capitalists would have dared to invest their money in the manufacture of the countless products that have built our wealth. Our patent system, while open to improvement, is still the finest in the world. That is why America leads the world in the development of industrial inventions.

In a letter to Dr. C. F. Kettering on November 9, 1936, President Roosevelt said:

In bringing to the Nation's notice the long duration and fine fruits of our patent system and its promise for the future you and your committee are rendering an extremely valuable service.

and in a letter of the same date to the Secretary of Commerce, Hon. Daniel C. Roper, President Roosevelt said:

For myself, I am convinced that the genius which the American Patent System has evoked and rewarded will prove equal to the solution of these social and economic problems.

There is hearty agreement in this conviction. Our patent system has brought us a long way and solved many problems. It must not be impaired or destroyed by unfounded criticism but should be supported and strengthened as it is capable of solving our current problems if we use it wisely and well.

PATENTS STIMULATE RESEARCH

From some of the testimony which has thus far been adduced at the hearings before the Temporary National Economic Committee, and from some of the questions asked the witnesses by the Department of Justice officials, it is possible that certain erroneous impressions might be created in the minds of those who will be called upon to study possible recommended changes in or repeal of the patent laws.

Witnesses testifying for the automobile industry were asked the following questions, among others:

(1) Do you feel that the grant of the patent monopoly operates more to protect the company which takes out the patent than it does to stimulate invention per se?

(2) Would your company continue its research work and the development of new products if the patent statutes were repealed?

The answers, in general, to both questions were in the affirmative. The impression might thus be created that the patent laws have served their usefulness, and now no longer achieve what they were enacted to achieve—i. e., the promotion of the progress of science and the useful arts—and that also progress and research would continue even though there were no protection afforded by the patent laws. Nothing is further from the truth.

In the first place it should be remembered that all of the witnesses expressed their belief that the patent laws have served and will continue to serve a useful and necessary purpose in the American economy. And in the second place it should also be remembered that the witnesses represented large corporations, with an invested capital reaching into the millions of dollars, and thus could speak only for such corporations with assets and invested capital of millions of dollars when they stated that they would continue their research and progress even though the patent laws were repealed.

It requires no stretch of the imagination to agree that such corporations could and would continue their research, for they would have to do so in a highly competitive market or else lose their business to a more progressive competitor. On the other hand, consider the inventor who is starting up a new business founded on his invention; an inventor who has spent possibly years in research, and has borrowed money from his friends and mortgaged his house to finance a new business venture. Would he be likely to develop his idea if the protection of the patent laws were denied him? Could he interest businessmen in joining him in developing a new market and investing money in an enterprise speculative at best, if the protection of the patent laws were denied them? It would require a stretch of the imagination beyond the bounds of reason to think that they would. And it is these small inventors, small businesses founded on the protection of the patent laws, that represent the great majority of businesses dependent on the patent laws. The views of those people and those businesses are certainly entitled to consideration when we consider the possibility of repeal of, or major change in, the patent laws. Representative opinions with respect to the views and needs of these people and these businesses may be taken from reports of hearings which have been held before on revision of the patent laws.

Similar statements may be found in other hearings which have been held on bills proposing change in our patent laws. Of more recent date were the March 1938 hearings on a bill to provide for compulsory licenses for patents, which was introduced by former Representative McFarlane, of Texas. Representative statements from businessmen, patent lawyers, and inventors may be found in those hearings.

The small businessmen and inventors who testified at those hearings stated that the exclusive patent monopoly is absolutely necessary to the continued successful existence of small businesses founded and developed on inventions, to the future development of such businesses. And these witnesses in general testified that if the exclusive patent monopoly is taken away, research and development, so far as they were concerned, would of economic necessity be curtailed and eliminated.

It should be remembered that even the large corporations find the patent protection useful and necessary, and their representatives believe that the patent laws have proved beneficial and are still necessary. As for the small manufacturers, the patent-law protection is essential to their continued economic life. These matters should be kept in mind in weighing the testimony before the Temporary National Economic Committee.

PROPOSED LEGISLATION

There are pending certain bills for change in the patent laws which have the approval of the Patent Office and other substantial endorsement and which should receive consideration.

H. R. 8441 amends R. S. 4898 (35 U. S. C. 47) to provide that the recordation in the Patent Office of assignments of applications for patent shall be constructive notice. Hearings have been had on the bill and it has been approved by the American Bar Association and other patent law associations.

H. R. 8442 and substitute H. R. 9616 amend R. S. 4886 (35 U. S. C. 31) to prohibit reliance on acts done abroad, other than the filing of an application for patent in a foreign country under R. S. 4887, in establishing a date of invention abroad. This amendment of the statute arises as a result of the interpretation of R. S. 4886 by the Supreme Court in *Electric Storage Battery Co. v. Shimadzu et al.* (306 U. S. 5). This bill has been approved by the American Bar Association and other patent law associations at hearings held on this bill.

H. R. 8444 authorizes divisional applications and reissue applications to be filed by the assignee of the entire right, title, and interest to the patent under certain conditions. Hearings were had on this bill and it has been approved by the American Bar Association and other patent law associations.

H. R. 9384 repeals the disclaimer statutes and provides in effect that the patent is still valid though containing claims adjudicated to be invalid. This bill has received the approval of the National Advisory Counsel of the Committee on Patents, the American Bar Association and others at hearings had on this bill.

H. R. 9386 amends R. S. 4888 (35 U. S. C. 33) to validate joint patents when less than the total number of parties applicant were the true inventors; also R. S. 4892 (35 U. S. C. 35) provides for a single signature to the application for patent provided the signature be appended to the oath; and R. S. 4895 (35 U. S. C. 44) authorizes a

divisional application to be made by the assignee of the entire interest in the parent application of patent. At hearings held on this bill it was approved by the National Advisory Council of the Committee on Patents, the American Bar Association, and others.

PROPOSED COURT OF PATENT APPEALS

The next major recommendation for change in our patent laws has been for the creation of a separate court of patent appeals. In general this change is favored by those who oppose compulsory licensing bills. There has been agitation for such a court for a long time. The proposal was first considered by the American Bar Association in 1898. A bill was proposed in 1903 providing for a chief justice and six associate judges, selected from the circuit and district courts, the chief justice to be appointed for life and the associate judges for 6 years.

The Oldfield Committee of 1912 recommended the creation of such a court on page 23 of its report, stating that:

The present system under which it is possible that diametrically opposite decisions may be given by the courts of appeal in different circuits, so that the ultimate decision of rights can be determined only after years of litigation, and the allowance of a writ of certiorari to the Supreme Court of the United States presents further opportunity for oppression by the wealthy and powerful combination.

In 1917 the National Research Council appointed a committee to study the patent situation, and this committee recommended the creation of a court of patent appeals. A bill was thereafter introduced in Congress, embodying the same features as the 1903 bill. The House of Representatives Committee on Patents held hearings on this bill in 1919 (called the Nolan hearings), and the committee refused the bill. There was opposition to the bill on the grounds that it would take some of the best judges from the circuit and district courts and confine their activities to the patent field only, and also that judges would not be willing to break up their homes and associations for a short term of 6 years. Some witnesses representing the patent bar, inventors and manufacturers favored the bill.

President Taft's Committee on Economy and Efficiency, which made a study of the Patent Office, were in favor of creating a court of patent appeals. (See House Documents, vol. 103, No. 1110, 62d Cong., 3d sess., 1912-13).

The Committee of Patent Law Revision of the American Bar Association at the annual meeting in 1931 went on record as favoring a separate court of patent appeals.

The Science Advisory Board Committee which studied the Relation of the Patent System to the Stimulation of New Industries made the following statement in its report:

A great deal of delay and confusion results from our present system of litigation of patents. The patents suits on a single important patent may cost several hundred thousand dollars. Such a burden confronting a young and struggling new industry often results in its thorough discouragement. It is possible under the present system for very many years to elapse between the initiation of proceedings and their final disposition, and industry in the meantime falters. It is possible for suits to be brought simultaneously on the same patent in several district courts. Moreover, on their appeal to the circuit courts of appeals, it is sometimes the case that conflicting decisions are given in different circuits. The result of this entire situation is a serious burden on growing industry, and on this point there is the strongest feeling among users of the system of a need for simplification.

The committee therefore recommended that a single court for patent appeals be established, in order to have harmony and accuracy in judicial interpretation of patent questions, by confining the appellate jurisdiction in civil patent causes to one court, composed of permanent judges having the necessary scientific or technical background. The committee felt that the court should be located in Washington, D. C.; and should hold terms at least once each year in each judicial circuit unless there was no necessity therefor.

The Honorable Conway P. Coe, Commissioner of Patents, in his testimony before the House of Representatives Patent Committee holding hearings in 1935 on the pooling of patents stated that he favored the creation of a single court of patent appeals with ambulatory powers, and also equipped with selected, trained, scientific advisors in order to assist the court in the handling of the technical part of the patent cases.

F. L. Vaughan, in his book *Economics of Our Patent System*, recommends the adoption of a single court of patent appeals, and states on page 231 of his book:

The argument for a patent court, which will reconcile the differences between the nine circuit courts of appeal is irrefutable. The Supreme Court, with an ever increasing number of cases before it, cannot be expected to review the patent decisions of the lower courts as it once did. Therefore, it seems that another court—one that is superior to the nine circuit courts of appeal—must be created. It would remove the conflicts now existing between the circuit courts of appeal.

In all of the hearings previously referred to there were witnesses who were opposed to this proposal. The opposition to the creation of such a court was based primarily on the grounds that the judges might get too technical and narrow; the creation of such a court could not stop repeated litigation over the same patent; a single court could not adequately handle the amount of patent cases disposed of by the circuit courts of appeal; the removal of hearings on patent appeals from the 10 circuits to Washington would work a hardship upon litigants and lawyers and increase the cost of litigation.

Of more recent interest, there was testimony before the Temporary National Economic Committee which favored the creation of a separate court of patent appeals, and in its preliminary report the Temporary National Economic Committee recommended that such a court be created. A bill was introduced in Congress on July 11, 1939, by Senator Bone, and the Senate Committee on Patents reported favorably on this bill. That bill (S. 2687) is now pending in the Senate.

Because of the conflict on this question, and because the proposition to create a new court is one of importance, I have given considerable attention and study to this question and have had considerable correspondence with patent lawyers, inventors, and those interested in the patent law. I have examined many articles and publications dealing with this proposal, and after giving full consideration to the matter I have reached the conclusion that the so-called Bone bill, or other measures seeking to create a separate court for patent appeals, should not be enacted into law.

During the Seventy-fifth Congress the Committee on Patents of the Senate reported a similar bill providing for a separate court of appeals for patent litigation. I was opposed to the bill at that time and on the floor of the Senate I objected to its consideration. The additional research and study I have devoted to this question since

that time, has convinced me that my opposition to this proposal is based on sound reasons.

Before discussing in any detail the various reasons urged in the report of the Senate Committee on Patents in support of the Bone bill I want to allude briefly to the fact that I have received letters and complaints from members of the patent bar that notice of the hearings held on this bill by the Senate Committee on Patents was not adequate. I am told that notice was given only 1 day in advance of the hearings, and consequently responsible members of the patent bar who otherwise would have appeared and testified in opposition to the bill, were not able to be present. It seems to me that the proposition to create a new court is of so much importance that it should receive the most careful consideration, and the arguments pro and con should be made available to all members of Congress. Suffice it to say that the hearings held on this bill (S. 2687) by the Senate Committee on Patents do not adequately portray, in my opinion, the great opposition to this proposal that exists among the members of the patent bar, inventors, and manufacturers.

I desire to refer briefly to reasons urged in support of this bill in the report of the Senate Committee on Patents, and to indicate briefly why, in my opinion, the proposed bill will not solve the problems said to exist by the committee report, nor would it be any improvement over the present system. I shall indicate reasons why I believe no great need exists for such a court, and further, certain specific objections which might be urged in opposition to the creation of a specialized tribunal to deal with only one of the many branches of our Federal law.

Briefly, the report of the Committee on Patents states that the various circuit courts of appeals vary greatly in the treatment of patents; that the various circuit courts are guilty of inconsistent rulings in patent matters, and "a patentee is not assured of universal recognition of his patent, nor is the public assured of universal invalidity of the patent, in the case of one held invalid, until after numerous suits in various jurisdictions." I shall indicate later why the proposed court, if created, cannot solve this problem, and further, that if the problem is considered to be a serious one, there is an easier, simpler, and less costly solution.

It is further stated in the committee report that the same patent may be the subject of suit in several jurisdictions, and the result often is disagreement among the appellate courts as to the facts and the interpretation of the law. It is not stated how often this situation arises, and I shall indicate later that the situation is quite different from that portrayed in the report.

The committee report finally states that it often requires years of litigation in the various circuit courts to obtain anything approaching a final result, and this works a hardship on patentees and users. Here again I think the true situation is somewhat exaggerated, as I propose later to show.

The report also lists a number of organizations, associations, and agencies which approve of the bill. I indicated earlier that I have received many protests from lawyers and associations to the effect that if notice of the hearings had been adequate they would have expressed their opposition to this bill. I think I can say without fear of successful contradiction that the great majority of patent lawyers,

patent bar associations, and students of the problem, are opposed to this bill. I shall later indicate some of the associations and organizations which have advised me of their opposition to the bill.

Considering the first contention of the Committee on Patents, namely, that there is great variation in the treatment of patents by the several circuit courts, and that there are many inconsistent rulings, it might be well first to point out a fact which is familiar to all persons with legal experience: Courts of appeals are bound by the record of the court below, and many of the alleged conflicting decisions probably could be traced directly to the fact that new evidence was produced in a second trial which was not available to the court in a prior suit. There is no way by which this situation could be remedied even by the creation of a separate court of patent appeals.

It should also be pointed out that even where the several circuit courts have differed in their statements of the patent law, and statistics indicate that this is not often, the conflicts are settled by the Supreme Court without any great delay. Patent law is no different from other Federal statutory law which has Nation-wide application, and which is subject to some variation of interpretation in the different circuit courts. I see no reason for assuming that patent law requires a more immediate uniformity of interpretation than do the other divisions of the Federal law.

With respect to the statement that because of inconsistent rulings in patent matters by the various circuit courts, a patentee is not assured of universal recognition of his patent, I think it is sufficient to state that this problem would not be solved by the creation of a single court of appeals for patent litigation. A decree in a patent suit operates in personam only, and not in rem. A decree in one suit in favor of the plaintiff would not be binding on a new and subsequent defendant. That defendant would be entitled to his day in court, and the right to show either that his own patent does not infringe or else that the plaintiff's patent is invalid. The prior suit would not be binding on him, nor should it be, for he might have new and additional evidence which properly should be brought to the court's attention. To preclude him the right to do so would be contrary to established concepts of justice and to the common law. Serious fundamental objections could be urged against this bill if by virtue of it defendants would be deprived of their day in court. And if they would not be so deprived then the creation of the proposed court would not solve the problem which the Committee on Patents alleges to exist.

The report states further that the public is not assured of universal invalidity of the patent, in the case of one held invalid, until after numerous suits in various jurisdictions. If examination should show that this problem is a serious one, and the research I have been able to make has not convinced me that such is the case, then there is an easier, a simpler, and a cheaper solution to it than the creation of a single court of patent appeals. I refer to the proposal that the law be amended to provide that where a plaintiff has unsuccessfully prosecuted one suit and his patent has been declared invalid that he shall thereafter be barred from prosecuting additional suits based on the same patent in different jurisdictions. There would be nothing novel or unusual about such a provision as this; it would very definitely solve the problem which the report of the Committee on Patents

refers to, and it would work no extreme hardship, for the patentee will have already had his day in court. Needless to state, there would be no expense to the Government if this amendment should be adopted as compared with the \$300,000 a year which it is estimated a single court of patent appeals would cost the Government. I should hasten to state that I am not now advocating the adoption of the possible amendment I have referred to. As stated, I am not satisfied from the studies I have made that this is a serious matter which needs correction; but if facts can be presented which indicate the necessity of remedying the situation, then I submit that an amendment similar to the one which I have suggested would be more appropriate than the creation of a single court of patent appeals.

The report of the Committee on Patents states that the same patent may be the subject of suit in several jurisdictions and the result often is disagreement among the appellate courts as to the facts and the interpretation of the law. I believe, however, that the situation is not so serious as indicated by the report.

What is meant by the Committee on Patents in its statement that there "often is disagreement among the appellate courts?" "Often" is a relative term; to some of us it might mean "many"; to others, willing to inquire, the statement actually means that there have been some cases—not many, but some—where there have been conflicting decisions between different circuits involving the same patent. But this does not mean that the situation is a serious one. Far from it, as certain pertinent figures will indicate.

It is interesting to note from the figures presented to the Temporary National Economic Committee by Conway P. Coe, Commissioner of Patents, that in the 4 fiscal years 1935 to 1938 inclusive there have been a total of 3,954 suits involving patents, concluded in the district courts. For the same period there have been a total of 538 suits involving patents concluded in the circuit courts of appeal. These figures indicate that approximately 87 or 88 percent of the patent litigation ends in the district courts and thus would not be affected by the supposed benefits which we are told would result from the creation of a single court of patent appeals.

In other words, it is proposed that there should be a specialized technical tribunal instead of the regularly constituted courts of general jurisdiction to deal with this 12 percent of the patent cases which find their way to the courts of appeal. When one considers that over 2,000,000 patents have been issued by the Patent Office; that approximately 50,000 new patents are issued each year, and that there are outstanding at one time approximately 750,000 patents, we can appreciate the relatively insignificant number of cases which go to the courts of appeal and which would be affected by the creation of this proposed court of appeal.

I appreciate that these figures I have cited are only a partial answer to the contention made in the report, that the same patent may be the subject of suit in the several jurisdictions and the result often is disagreement among the appellate courts as to the facts and the interpretation of the law.

Dealing more specifically with this contention, I invite attention to a fact with which all lawyers are familiar. It is the practice of the Supreme Court to grant a petition for certiorari whenever there is an actual conflict between decisions in different courts of appeal with

regard to the same patent. (And, as a matter of fact, the Supreme Court recently held that where it is improbable that a conflict of decision respecting the validity of a patent will arise in different circuits, because of the concentration in one circuit of the industry in which the patented devices are used, there is reason for granting certiorari to review a decision in that circuit sustaining the patent. *Schriber-Schroth Co. v. Cleveland Trust Co. et al.*, 305 U. S. 47.) If there were many cases where the same patent was the subject of suit in several jurisdictions, and there was disagreement among the appellate courts as to the facts and the interpretation of the law, then one might logically expect that a great number of cases involving such a conflict have been decided by the Supreme Court, since it is the practice of the Supreme Court to grant certiorari where there is this conflict. Yet a study of the decisions of the Supreme Court indicates that there have been very few of such cases; sufficiently few to indicate that this is not a serious problem.

A study of the decisions of the Supreme Court indicates that between 1891 and January 1, 1938, only 38 patent cases were taken up because of a diversity of opinion as to the validity or infringement of the same patent. In other words, over a period of 46 years, there have been only 38 cases where the diversity of opinion upon the patent was such that the case reached the Supreme Court. This is a total of less than one case a year for 46 years. These figures certainly do not indicate that the Government would be justified in spending perhaps more than \$300,000 or more each year for the maintenance of a separate court of patent appeals.

With further reference to this contention that the same patent may be the subject of suit in several jurisdictions, and the result often is disagreement among the appellate courts as to the facts and the interpretation of the law, and therefore we should pass this bill to create a separate court of patent appeals, I should like to quote from the December 1919 report of a committee of the Chicago Patent Law Association, which report, is quoted with approval in the 1939 report of the legislative committee of the Chicago Patent Law Association on this bill. Referring to the above contention, which was urged in 1919, the report states:

There is no such anomaly. The hardships complained of (so far as they are real) existed in quite as aggravated form when all patent cases went by appeal directly to a single court—the Supreme Court of the United States. These hardships would not be either prevented or mitigated by conferring on the proposed court the jurisdiction now exercised by our several United States courts of appeal. Most federal laws apply alike to the entire country, and few of them escape being differently interpreted and differently applied by the different judges and juries administering them; there is liable to be quite as much conflict in the courts of appeal when applying other federal laws, and it is generally rather more difficult to remedy the conflicting decisions by writ of certiorari. Nor would such conflict as is due to the personal equation, in differently applying the same law to substantially the same evidence, be generally corrected by having a single court of appeals.

* * * * *

The judgment of a court of appeals in a patent case does not operate *in rem* but only *in personam*. It is just as conclusive between the parties and their privies in every other circuit as in the circuit where it is rendered. It is not conclusive between strangers either within the circuit or elsewhere. Precisely the same would be true of a judgment of the proposed court, and was true of decisions of the Supreme Court when all patent cases went there by appeal or writ of error. * * *

Every new defendant has the right to contest a patent that has been sustained by the court of last resort, even though it be the Supreme Court of the United States, if he was not party or privy to such judgment; and every owner of a patent which has been held invalid, or not to have the scope asserted for it, has the right to contest the same question of validity and scope against another defendant in the same jurisdiction or elsewhere. By new evidence, or by directing attention to an aspect of the law before overlooked, or by arguments which correct misapprehension to which the former judgment was due, he may obtain a judgment, within the same jurisdiction or in a different jurisdiction, directly contrary to that which remains binding in the former case.

The report of the Senate Committee on Patents states further that it often requires years of litigation in the various circuit and district courts to obtain anything approaching a final result, and the time and cost of litigating questions of validity and infringement of patents often results in the inability of a patentee or the users to obtain determination as to their rights.

This is merely a continuation of arguments which I have previously noted and discussed. Little more need be said with respect to this contention. It is difficult to state how often this situation complained of in the report might arise. That the situation is greatly exaggerated I have no doubt. But that there are some such cases, just as there are in other branches of the Federal law, such as taxation and bankruptcy, no one would question. In what manner a single court of patent appeals would solve this problem and prevent further litigation involving the same patent has not been satisfactorily explained. The truth of the matter is that the mere establishment of a single court logically would have no effect on the number of suits filed on the same patent.

Even if a patent had been sustained by a single court, the patent owner would have to bring a new suit against any new defendant who would not recognize his patent. The proposed court would not prevent such new suit, for the new defendant would have a right to urge that he is not infringing, and that he has evidence to show that the patent is not a valid one. And similarly if the patent had been held not infringed in the earlier case the plaintiff would still have the right to bring a new suit against a new defendant. There have been, in the past, prolonged series of litigations upon the same patent within a single circuit. And the fact that the appeals would go to the same court under this bill does not necessarily mean that litigants would reach the conclusion that the same court would arrive at the same decision in a second suit. The Supreme Court has recently reversed itself on the validity of a patent when it considered the patent in a second suit—new evidence being adduced at the second trial (*Smith v. Hall*, 301 U. S. 216 (1937)). The same situation could arise under the single court, and there is thus no assurance that the mere adoption of this proposal would be successful in eliminating protracted litigation involving the same patent.

The possibility of repeated litigation involving the same patent could be substantially curtailed only by a statute making the first decision as to the validity of a patent thereafter binding upon the world, and no one, I believe, would support such a proposal, for it would violate the established principle of the common law that every defendant is entitled to have his day in court and to submit his own evidence and arguments in his defense. Furthermore, any such law would constitute a great inducement to patent owners to bring suits which would not be adequately defended, either because

of inability of the particular defendant to present the best defense, or because of actual collusion between the plaintiff and the defendant. Such a rule as this, therefore, would not be a desirable one.

I can conceive of situations where litigation might be less expensive as the result of the creation of such a single court of patent appeals, but I can also conceive of situations where the litigation would be more expensive to litigants because of such a court. The bill provides that the single court may hold sessions in the several judicial circuits. There is no mandatory requirement that the court shall be ambulatory, and the likelihood is that the court would choose not to travel, and litigants and their attorneys would be required to travel to Washington to prosecute an appeal. This would be necessary unless litigants were able and willing to bear the burden of delay required for the court to make a visit to the particular circuit. I am not satisfied, nor are the persons who have corresponded with me in connection with this matter, that the proposed court would reduce the cost of litigation; there is a very definite fear that the costs of litigation would be increased considerably and unreasonably should such a court be created.

The Committee on Patents has listed in its report a number of persons, agencies, organizations, and associations which favor this proposal. It is interesting to note the statement in the report to the effect that:

While there have been a few who objected to the bill or to various provisions of it, the sentiment expressed at the hearing and in letters and reports is overwhelmingly in favor of the single court for patent appeals.

At the opening of my remarks I referred briefly to the fact that I have received numerous complaints that the hearings on this bill, and the notice of hearings, were inadequate. I have felt that the proposition to create a new court is of so much importance that it should receive the careful investigation and study not only of Members of Congress, but of members of the bar in general. In the course of the past year, as previously indicated, I have received many letters from members of the patent bar, some of them in favor of this proposal, but the overwhelming majority were in opposition to this proposal. The correspondence and information I have received indicates that the proposal to create a single court of patent appeals has been opposed in principle by the American Bar Association, the New York Patent Law Association, the Association of the Bar of the City of New York, the Boston Patent Law Association, the Cleveland Patent Law Association, the Michigan Patent Law Association, the Illinois State Bar Association, the Chicago Patent Law Association, the Milwaukee Patent Law Association, and the San Francisco Patent Law Association. I have no doubt that the opposition to this bill would be even greater and more general should further hearings on the proposal be held.

In my opinion, the proponents of this measure fail to make a case for the creation of the single court. The evidence indicates that no great evils exist under the present system, and the arguments in favor of the bill fail to show that the situations, which are regarded as objectionable, would be solved by the creation of this proposed court. I have indicated that I regard the alleged deficiencies of the present system as minor ones, and that further these alleged deficiencies would not be solved by the creation of the proposed court.

Since the evidence indicates that there is little need for a change in the matter of patent appeals, and since the proponents of this measure have failed to show that the change proposed would be better than the present system, it may be surplusage for me to point out certain specific objections to the proposal which, in my opinion, make it seem unwise for Congress to pass this bill. Nevertheless, I believe I should submit my view, that this proposed legislation is not only unnecessary, but it is unwarranted, unwanted, and unwise. There are certain inherent objections to the creation of such a specialized court as this which have been urged before, but which will bear repeating.

Patent law differs from other branches of the Federal law only in respect of the scientific principles which must be presented and discussed as a part of every case. In the same way, however, criminal law, mining law, admiralty law, and tax law may be distinguished from other branches of legal science. Yet all cases—at law or in equity—must be decided on the basis of established rules, which are the product of accumulated experience and wisdom, and which all judges hearing appeals must apply in law suits, whether they be in patent, mining, admiralty, or tax law. Each of these classes of cases has special rules applicable to them, which any competent judge can and must grasp and apply to the facts contained in the record which is before him. This is a judicial function, and not the function of a scientist or an engineer.

The question involved here is not merely the creation of a new and additional court. The implications go far beyond that. There is a fundamental question involved in this proposal which deserves serious consideration. Is it desirable to emasculate our judicial system by segregating separate kinds of litigation? Is it desirable to have appeals determined by specialized tribunals, which, having lost their contact with the general law, tend by the very nature of things to become more narrow in their outlook? Nor is this question limited to patent law alone, for the same arguments which would justify a separate court of appeals for patent cases would apply equally well to other branches of the law. Certainly the bill proposes an undesirable departure from our present judicial system.

I am inclined to agree with Judge Augustus N. Hand, who is reported to have remarked at a dinner at the New York Patent Law Association in December 1936, that:

On the whole, it seems to me that there is no esoteric mystery about patents, that the questions, except in some extraordinarily difficult cases, do not widely differ from other issues of fact which judges have to dispose of. * * *

I believe that a good lawyer, and a good judge, with no preconceived scientific prejudices, who carefully considers the facts, may be trusted to make proper decisions in patent cases. And conversely, I think that technical judges might have preconceived scientific or technical prejudices which would detract from their ability as fair and impartial judges. Certainly their technical knowledge would avail them little in cases involving a different field of science than that in which they are trained. And no court could have enough specialists to be expert over the wide range of patentable subject matter.

Thus the Chicago Patent Law Association stated in its report in opposition to this bill:

Patent litigation involves in its many ramifications chemistry, physics, mechanics, electricity, metallurgy, and other arts. Because of this wide diversifica-

tion of patentable subject-matter, the Patent Office is divided into a large number of divisions, each division consisting of specialists in a particular art. The personnel of a Single Court of Appeals could not be composed of specialists in all of these arts. Such a Court would have to be educated in the same manner as the judges of the Courts of Appeals of the several Circuits.

I have no doubt that such a court, no matter how laudable the intentions of those who favor it now, would eventually degenerate into an exalted bureau of the Patent Office, and, as I previously indicated, such a court, separated from the broadening influence of the general law, would become ingrown with specialized practices and bureaucratic methods.

Judge Learned Hand, when appearing in 1919 before the House Patent Committee on H. R. 5011, 5012, and 7010, said (p. 119):

I think a judge should not be a specialist and if this were the creation of a special court to which judges were assigned who would never do anything else, I should not think it was a good bill. I think that is particularly true in patents, as gentlemen of the patent bar have often told me, and it quite accords with such experiences as I have had myself, that for a judge to do nothing but patent work permanently gets him into a narrow and somewhat bureaucratic attitude. He should keep alive to the general aspects of the law; if he does not, he forgets that patent law is law at all.

The Chicago Patent Law Association, in connection with this particular phase of the problem, has this to say:

Such a Court, would, because of its restricted jurisdiction, lose the unquestionable advantage of contact with a wide variety of cases in other branches of the law. It is this contact with various cases and legal disputes which develops a balance in judgment which cannot be acquired in any other way. It is this rounding out of experience and judgment of our Federal Courts, which have, to a very large measure, developed the legal principles which constitute the very foundation of our judicial system. To divorce judges who are to hear patent appeals from this important contact with disputes and contests in other branches of the law, would unquestionably result ultimately in the production of judges of limited vision and narrowed judgment. Such a Court would very likely become supertechnical to a high degree and would not understand and properly apply the equitable principles which have become a fundamental of the application of the patent laws. Such a court, very likely specializing in merely one branch of law, would become bureaucratic in its methods with highly specialized practices, and, in effect, would be merely a specialized Patent Office Tribunal which would not have the benefit of the consideration of the application of legal principles in the various walks of life. Therefore, such a Court in its consideration of patent matters very likely would not appreciate and apply the broad legal principles established by the present practice, but, on the contrary, would very likely become highly technical and in a large measure, confine its consideration to the narrow, technical phases of the case.

In concluding my observations on this proposal, I should like to quote two paragraphs from chapter 14 of Mr. H. A. Toulmin, Jr.'s fine book entitled "Patents and the Public Interest." With respect to this proposal to create a separate court of appeals for patent litigation, Mr. Toulmin remarks that—

There are two kinds of reform and two kinds of reformers who are attempting to reorganize or abolish the patent system. The first class comprises those who believe that only a central government at Washington with its system of federal bureaus and a single court or system of courts at Washington can possibly be trusted to run the Nation, including the patent system.

This group distrusts local self-government and the wisdom of the people. In this group are included such reformers as those who would place a federal control upon business by the licensing of corporations from Washington, taking this right away from the states. In this group are those who would have a single Court of Appeals for deciding patent cases. There are also those who would take away from the Courts of Appeal in each locality where local self-government and local conditions can be examined by the court the right of citizens within the

jurisdiction of that court convenient to them to have their interests tried. By some mysterious alchemy the advocates of a single Court of Patent Appeals assume correctness and finality of decision in such a court at Washington, while assuming that the same kind of men who have sat on great Courts of Appeal throughout the Nation have been unable to secure the same results throughout our Nation's history.

* * * * * * *

The second class of reformers are those who are against the patent system in its entirety because it is a part of the capital system. To them all property should be communal and administered by the government, for which a central Court of Appeals at Washington is but a name for a principle. "The State is All" is their slogan, but democracy means that the individual is supreme, except as his interests necessitate cooperation with his fellow men.

There is a careful and able analysis of the patent system and the proposed single court of patent appeals contained in Mr. Toulmin's book, and I commend it to those who are interested in preserving our patent system with all its advantages and its many benefits.

In conclusion I should like to reiterate that it would be unwise to create such a court if there is no need for it. The expense alone would be prohibitive. In my opinion the proponents of this measure have not supported the thesis that evils exist under the present system requiring the creation of another judicial tribunal. The facts as presented to me indicate rather clearly that the alleged deficiencies are not so serious as some would have us believe, and further that the creation of a single court would not solve the problems and deficiencies which are alleged to exist in the present system of patent appeals. Finally, as indicated, there are certain inherent objections to the creation of specialized tribunals of the type contemplated by the measure now being considered.

This proposal to create a separate court of patent appeals has been considered and rejected by many previous Congresses. It is my earnest hope that this measure which has been so repeatedly and consistently condemned as unneeded, unwarranted, and unwise, may be finally and unequivocally rejected. In my opinion, the patent system with all of its many benefits will best be served by the rejection of this proposal.

RECOMMENDATIONS OF THE TEMPORARY NATIONAL ECONOMIC COMMITTEE IN ITS PRELIMINARY REPORT

In summing up the preliminary recommendations of the Department of Justice to the Temporary National Economic Committee, and adopted by the committee in its preliminary report, George E. Folk in the October 1939 issue of N. A. M. Law Digest said:

1. They would *destroy* in part the patent right itself instead of *preventing* misuse of it.

2. They would make unlawful, rights recognized since the beginning of our patent system as "reasonably within the reward which the patentee by the grant of the patent is entitled to secure."

3. They indicate a disturbing lack of understanding of the nature, purpose and effect of patents. They assume that the right to license a patent in certain ways, not in violation of anti-trust laws, is inherently unjust and oppressive, and undertake to destroy it.

4. They in effect, depict a license as an agreement created by the patentee which *perverts* the licensee from doing something which he might otherwise do. Whereas the license *permits* the licensee to do something which he otherwise could not do. A license is always a relaxation or removal of restrictions created by the patent.

5. They appear to proceed upon the assumption that there is an essential conflict between the patent monopoly and the American tradition and law against monopolies. Such assumption is not true.

6. They discriminate against patent property; whereas the patent owner should be on a parity with all other property owners so far as control of his own specific piece of property is concerned. The relation of the patentee's conduct to the anti-trust laws should be tested by the same standards that apply to the holders of other kinds of property. That is, does the exercise of his control fall within the recognized rights of ownership or outside of it?

7. They would make illegal certain transactions with respect to patented products which are and would remain legal if the products are unpatented. This on its face is unwarranted.

8. They would impair, seriously, property rights of owners in existing patents through curtailment of the existing right to license such patents. There are more than 700,000 unexpired patents now outstanding, owned by many thousands of individuals and corporations, which would be affected.

9. If agreements in restraint of trade result from the misuse of patent property the anti-trust laws are adequate to deal with them in the same way that they deal with misuses of other property rights.

10. No evidence was produced that would indicate the necessity or desirability of the proposed restrictions, or that the proposed changes were sound or advantageous.

11. There was no evidence showing that conditional licenses are undesirable or that the public interest would be better served if the recommended restrictions on the granting of licenses were adopted.

12. There was no evidence either warranting the recommendations or indicating the practices attempted to be prevented were bad practices.

13. There was no evidence to show that conditional licenses are undesirable or beyond the logical scope of the patent monopoly. Since harmfulness of such licenses was not shown, legislation prohibiting them should not lightly be recommended.

14. The penalty of forfeiture of the patent property to the United States in the event of violation would be unreasonable in that there would be no opportunity to adjust the penalty to the violation. In some instances forfeiture might result in no substantial penalty at all because the patent might have no substantial value, while in other instances a technical violation might cause an unconscionable loss.

CONCLUSION

In the course of this discussion an effort has been made to point out the theory of patents, the rights given to the patentee by the patent grant, and the limitations on those rights, the various changes which have been recommended to our patent laws, and the arguments for and against those changes. In conclusion it might be stated that over the entrance to the Patent Office is inscribed a statement of Abraham Lincoln's to the effect that: "The patent system added the fuel of interest to the fire of genius." Those associated with the patent system and the patent laws, and those who have made a study of the patent system are inclined to believe that the statement is as true today as it was in Lincoln's time. While there have been instances in the past where patents have been used to foster monopolies, the antitrust laws have been successfully invoked a number of times to put an end to this practice. While certain procedural changes and improvements may be necessary, the fundamentals of the patent system are just as necessary today as they ever were. Much of the great progress we have made as a nation we owe to our patent system and to the inventors, and much of that great progress we may expect in the future will also be the result of our patent system.

EXHIBIT NO. 2813

LETTER AND STATEMENT FROM THE NATIONAL
ASSOCIATION OF RETAIL DRUGGISTS

EXHIBIT NO. 2814

REPLY BY BUREAU OF LABOR STATISTICS, UNITED
STATES DEPARTMENT OF LABOR

(Received in evidence at Public Session February 26, 1941.
See Final Report and Recommendations of the Temporary
National Economic Committee, S. Doc. 35, 77th Cong., 1st
sess., pp. 537-538)

EXHIBIT No. 2813

NATIONAL ASSOCIATION OF RETAIL DRUGGISTS

Association officers: S. J. Watkins, President, Dora, Alabama; Edgar S. Bellis, 1st. Vice-President, 116 Pondfield Road, Bronxville, N. Y.; A. R. Granito, 2nd. Vice-President, 95 Main Street, Hackensack N. J.; John H. Paprocki, 3rd Vice-President, 3001 West Cermak Road, Chicago, Ill.; O. O. Older, 4th Vice-President, P. O. Box 327, Charleston, West Virginia; Joseph A. Pons, 5th. Vice-President, 630 North Taylor Avenue, St. Louis, Mo.; John W. Dargavel, Secretary, 205 West Wacker Drive, Chicago, Ill.; Clem A. Czerwinski, Treasurer, 3279 No. Holton Street, Milwaukee, Wis.
Executive Committee: George H. Frates, Chairman, Suite 809, Flood Bldg., San Francisco, Cal.; Hugh P. Beirne, 615 Howard Avenue, New Haven, Conn.; J. Otto Kohl, McMicken Avenue & Mohawk, Cincinnati, Ohio; Frank W. Moudry, Fifth and St. Peter Sts., St. Paul, Minn.; William McConaghy, 3800 Brighton Road, Pittsburgh, Pa.; John B. Tripney, 241 South Center Street, Casper, Wyo.

Rowland Jones, Jr., Washington Representative, 1163 National Press Building, District 7495

WASHINGTON BULLETIN

DECEMBER 24, 1940.

Hon. JOSEPH C. O'MAHONEY,
United States Senator, Senate Office Building, Washington, D. C.

DEAR SENATOR O'MAHONEY: As was indicated to you at the time of our conference which was attended by Dr. E. F. Kelly, Secretary of the American Pharmaceutical Association, the membership of that body, and the membership of the N. A. R. D. represented by the writer, have been greatly disturbed about the veiled attacks which have been made and are still being made against the Fair Trade acts which are now on the statute books of forty-four states.

We are familiar with the fact that the monographs, which are being issued under the authority of the Temporary National Economic Committee, are the sole and undivided responsibility of the authors thereof and that their publication by the Committee in no way signifies or implies assent to, or approval of, any of the facts, opinions, or recommendations, nor acceptance thereof in whole or in part by the members of the Temporary National Economic Committee, individually or collectively.

At first blush it would appear that this restriction of responsibility would be effective to prevent public acceptance of these monographs as official publications representing the point of view of the Temporary National Economic Committee and that of the Federal agencies involved. We regret that this restriction has not prevented the use of these monographs in a manner which conveys to the casual reader the distinct impression that they are official pronouncements reflecting a policy of your Committee and the Federal Government.

While we condemn such deceptive use of these monographs, we do not minimize their effect and we must point out that for all practical purposes they contain thinly veiled attacks upon a segment of the approved public policy of the great majority of the States of the Union on the subject of resale price maintenance as embodied in the Fair Trade acts.

We seriously question the right of any Federal agency to seek to undermine and destroy a public policy adopted by the sovereign states of the Union. A continuation of such policy of veiled and insidious attack under present circumstances and considering the well-known powers of unchecked propaganda, constitutes a threat to the constitutional right of the states to legislate for themselves in their own sphere of action outlined by the Constitution. Given ample funds and unchecked by Congress, Federal agencies have it in their power to shape and in some cases dictate the legislative policy of the states which they have no power or right to do by direct action.

For these reasons and by your express leave, we respectfully submit the attached informative statements in the hope that they will be helpful to you.

Our final and most serious observation in this matter is that it is our belief that the Temporary National Economic Committee in its final report should refrain from any derogatory expressions directed to the Fair Trade acts in the absence of adequate public hearings before the Committee in which all pertinent

facts could be adduced. In the absence of such an opportunity we question the right of the Temporary National Economic Committee to further extend or give dignity to the biased and unwarranted attacks upon the Fair Trade laws such as are contained in certain of the monographs submitted to the Committee.

Respectfully,

THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
ROWLAND JONES, Jr., *Washington Representative.*

STATEMENT OF THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS ON THE FAIR TRADE LAWS

THE HISTORY OF THE FAIR TRADE ACTS

Any chronological narrative concerning the Fair Trade Acts must necessarily begin with the decision of the Supreme Court of the United States in 1911 in the now famous "Dr. Miles" case, in which the Court held a manufacturer of a branded or trademarked product was prohibited under the Sherman Act from entering into contracts with his retail distributors providing for a minimum price below which his product could not be sold, holding such contracts to be in restraint of trade in the meaning of the Sherman Act.

It should be pointed out that such contracts up to this time had been lawful in the United States and such contracts remain lawful today in practically all of the civilized countries of the world as they were in 1911.

This decision, which is more distinguished for its dictum than for its reasoning, ushered in a period of jungle warfare in retail competition which grew progressively worse as time went on. As early as 1915 the Congress was asked to legislate on the problem in a bill introduced by Senator Stephens. A short time later similar legislation was introduced by Senator Capper and former Representative Clyde Kelly of Pennsylvania. This legislation, which came to be known as the Capper-Kelly Bill, was kicked around in Congress until it was finally passed in 1929 by the Lower House after the addition of amendments which destroyed its effectiveness.

After this effort of more than a decade, the proponents of the Fair Trade principle came to the conclusion that no Federal remedy could be had for their problem and turned their attention to a different method.

The first Fair Trade bill was introduced in the California Legislature in 1931, and this bill was changed by perfecting amendments in 1933. The legislation immediately demonstrated that it was effective in an important measure to meet the evil it was designed to correct. The states of New York, Illinois, New Jersey, and others followed the lead of California until 1936 when the Supreme Court of the United States in an unanimous opinion upheld the constitutionality of the California and Illinois Acts, which had previously received the stamp of approval from the Supreme Courts of those states.

The Court in its decision stated that the Illinois Act imposing an obligation on non-contracting dealers "does not deal with the restriction upon the sale of the commodity *qua* commodity, but with that restriction because the commodity is identified by the trade-mark, brand or name of the producer or owner. The essence of the statutory violation then consists not in the bare disposition of the commodity but in the forbidden use of the trade-mark, brand or name in accomplishing such disposition. The primary aim of the law is to protect the property—namely, the good-will—of the producer, which he still owns. The price restriction is adopted as an appropriate means to that perfectly legitimate end and not as an end itself."¹

The victory of this legislation before the bar of the Supreme Court of the United States was the signal for the beginning of a parade of states adopting similar laws, until in this year of 1941 we find forty-four states of the Union with Fair Trade laws on their statute books. These laws have received the approval of the highest courts in every state in which they have been attacked, including California, New York, Illinois, Maryland, New Jersey, Pennsylvania, Wisconsin, North Carolina, Florida, South Dakota, South Carolina, and others.

In 1937 the Congress enacted the Tydings-Miller Act which provided for the amending of Section 1 of the Sherman Antitrust Act to provide "that nothing herein contained shall render illegal contracts or agreements prescribing minimum prices for resale of a commodity which bears, or the label or container of which

¹ 299 US 183 (1936).

bears the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, if contracts or agreements of that description are lawful as applied to intrastate transactions under any statute, law or public policy now or hereafter in effect in any state. * * *

By this enactment the Congress removed all doubt as to the legality of minimum resale price contracts operating across state lines where the state in which the contract is to be executed has adopted a Fair Trade Act. The Congress by its action recognized the right of the several states to declare their own public policy in regard to this legislation without Federal restriction or interference.

Today only four states, namely, Texas, Missouri, Delaware and Vermont, have failed to enact a Fair Trade law. In Delaware and Texas the legislation received the approval of the legislatures but was vetoed by the Governors. In all the forty-eight states only the legislatures of Missouri and Vermont have failed to approve this legislation.

The legislation has been further recognized by the Committee on Uniform State Laws at its meeting in Philadelphia in 1940.

Seldom in the history of this country has a legislative principle received in so short a time the almost unanimous legislative and judicial approval that has been accorded the Fair Trade Acts.

LEGISLATIVE PURPOSE AND STATUTORY LIMITATIONS

The purpose of the Fair Trade Acts is simple. They do nothing more than to provide a constitutional remedy against the recognized evils of predatory price-cutting and loss-leader selling. The title of the Model Act reads as follows:

"An Act to protect trade-mark owners, producers, distributors, and the general public against injurious and uneconomic practices in the distribution of competitive commodities bearing a distinguishing trade-mark, brand, or name, through the use of voluntary contracts establishing minimum resale prices and providing for refusal to sell unless such minimum resale prices are observed."

From an examination of the language of the Model Act, hereto appended, it will be seen that Section 6 is the heart of the law. It reads as follows:

"Willfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of this act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby."

Thus it will be seen that the remedies under the act are purely civil in their nature. The Act contains no penalty of any kind. The privilege conferred by the Act is purely voluntary in that a trade-mark owner, producer or distributor may or may not avail himself of the privilege as he sees fit. The determination of the language of minimum resale price contracts together with the minimum price provisions is entirely the responsibility of the party who offers the contract.

The limitations on activity under the Fair Trade Acts are ample and comprehensive. Section 7 of the Model Act reads as follows:

"This Act shall not apply to any contract or agreement between or among producers or distributors or between or among wholesalers or between or among retailers as to sale or resale prices."

With the exception of the right of contract in this specified field every other protection of the antitrust act is left intact. By far the most important limitation and public protection embodied in this legislation is the fact that any product or commodity to be eligible for coverage under a Fair Trade contract must be in "free and open competition with commodities of the same general class produced or distributed by others . . .". In this provision we find the preservation of competition in all of its important aspects and it is submitted that in all classes of products and commodities the way is left completely clear to allow free and unrestricted price competition if the trade-mark owner so elects. In support of this contention it should be noted that in every class of products and commodities a large number of important producers have seen fit not to avail themselves of the contract rights as to minimum prices granted by the legislation. We have already seen the operation of the provision that a product to be eligible

for a Fair Trade contract must be in free and open competition with products of the same general class produced by others. The now famous Ethyl Gasoline case, recently decided, made it clear that a product not in free and open competition with products of the same general class produced by others could not be placed under Fair Trade contracts.

The basic principles of the Fair Trade Acts were conceived and born in the minds of small competitors in retail distribution in their search for a remedy against the vicious and monopolistic unfair trade practices embodied in predatory price-cutting and loss-leader selling of well-known branded commodities moving in the domestic markets of the United States.

THE BASIC PHILOSOPHY OF THE FAIR TRADE ACTS

Recognizing that predatory price-cutting and loss-leader selling of well-known products and commodities bearing the trade-mark, brand or name of the producer or distributor is an evil productive of monopoly, it is submitted that the Fair Trade laws of the forty-four states supported by the Tydings-Miller Act are the only constitutional means so far devised to prevent these vicious practices. To mitigate the harmful effects upon the weaker elements in retail competition, forty-four states have adopted the principles of this legislation as a part of their public policy on commerce of this character. That they have a right to do this cannot be doubted and the picture is made even more clear when we point out that the states adopted this public policy after the failure of many years of effort in an attempt to convince the Federal Government that it should legislate in this field. No less a legal light than the former Supreme Court Justice Oliver Wendell Holmes, in the *Dr. Miles* case, denounced price-cutting as "the practice of knaves who resort to it, not for the purpose of benefitting the consumer but for their own selfish and ulterior purposes."

We note also what former Supreme Court Justice Brandeis had to say in referring to loss-leaders:

"If a dealer is selling unknown goods or goods under his own name, he alone should set the price; but when a dealer has to use somebody else's name or brand in order to sell goods, then the owner of that name or brand has an interest which should be respected. The transaction is essentially one between the two principals—the maker and the user. All others are middlemen or agents; for the product is not readily sold until it has been bought by the consumer.

"Why should one middleman have the power to depreciate in the public mind the value of the maker's brand and render it unprofitable not only for the maker but for other middlemen? Why should one middleman be allowed to indulge in a practice of price-cutting, which tends to drive the maker's goods out of the market and in the end interfere with people getting the goods at all?

"When a trade-marked article is advertised to be sold at less than the standard price, it is generally done to attract persons to a particular store by the offer of an obviously extraordinary bargain. It is a bait—called by the dealers a 'leader'. But the cut-price article would more appropriately be termed a 'mis-leader'; because ordinarily the very purpose of the cut-price is to create a false impression.

"The dealer who sells the Dollar Ingersoll watch for sixty-seven cents necessarily loses money in that particular transaction. He has no desire to sell any article on which he must lose money. He advertises the sale partly to attract customers to his store; but mainly to create in the minds of those customers the false impression that other articles in which he deals and which are not of a standard or known value will be sold upon like favorable terms.

"A single prominent price-cutter can ruin a market for both the producer and the regular retailer. And the loss to the retailer is serious.

"On the other hand, the consumer's gain from price-cutting is only sporadic and temporary. The few who buy a standard article for less than its value do benefit—unless they have, at the same time, been misled into buying some other article at more than its value. But the public generally is the loser; and the losses are often permanent. If the price-cutting is not stayed, and the manufacturer reduces the price to his regular customers in order to enable them to retain their market, he is tempted to deteriorate the article in order to preserve his own profits. If the manufacturer cannot or will not reduce his price to the dealer, the consumer suffers at least the inconvenience of not being able to buy the article."

In the appended exhibits will be found further statements on this subject by men prominent in public life.

It may well be that the nation-wide system of Fair Trade Acts is not the perfect remedy for the evils they are designed to mitigate, but as we have said it is the only effective, constitutional method that has yet been devised. With this in mind, it is incumbent upon the agencies of the Federal Government that look with disfavor upon the Fair Trade laws, to come forward with an alternative method to meet the problem which forty-four states have deemed worthy of serious attention. The federal agency which offers destructive criticism only renders a disservice to the states.

* * * * *

COMMENTS ON TWO T. N. E. C. MONOGRAPHS

On Monograph No. 1, entitled "Price Behavior and Business Policy" written by Saul Nelson and Walter G. Keim, under the supervision of Professor Edward S. Mason of Harvard University, the following observations are made:

(1) The data made available in Monograph No. 1 is not sufficiently comprehensive to justify such a publication and is not in keeping with the evident purpose of Public Resolution No. 113. The authors of the publication recognize the situation as expressed in the following language on page 355:

"The information for this analysis comes from the Retail Price Division of the Bureau of Labor Statistics which has collected retail price data for certain drugs, toiletries, and sundries for many years. For most of the individual items discussed here quotations have been obtained in recent years from over 130 stores located in 32 cities scattered throughout the United States; 5 quotations are obtained from New York City and Chicago and 4 from each of the remaining cities. This coverage is clearly too small to be adequately representative of the approximately 57,000 drug stores in the United States. This is particularly true with regard to independent stores, since convenience of collection made it desirable to concentrate on outlets of at least moderate size, located centrally or near good transportation facilities, largely to the exclusion of very small stores and of stores located in rural or outlying areas. The group of reporting chain stores is probably more representative, especially because quotations from one outlet of a chain frequently hold true for other outlets of the same chain in the same general locality. To some extent, moreover, the wide geographic distribution compensates for the small number of reporting stores in any given city."

A real study of all phases of retail prices in the drug trade is highly desirable because it is only in the light of such a comprehensive survey that retail price behavior in the drug trade can be appraised.

(2) The limited character of the "information for this analysis" does not justify conclusions and inferences of the type quoted below and which reflect unfavorably upon existing legislation and upon those who distribute the products referred to:

(a) "Because of the difficulty encountered by the average consumer in comparing the merits of rival drugs and toiletries, competition between manufacturers has centered largely upon advertising, trade-marks, and attractive packaging. At the same time, it is to the manufacturer's advantage to do all that he can to enlist the active sales cooperation of the retailer in pushing his particular product. As a result many manufacturers have adopted the policy of guaranteeing attractive margins to wholesalers and to retailers by fixing minimum resale prices for their products under the provisions of state resale price-maintenance statutes (the so-called fair-trade laws).

"Where resale prices have not been fixed in this manner, there is usually a very wide variation between the prices charged the consumer by different druggists for the same product. Aggressive price cutting by some retailers apparently has had a tendency to cause retail and wholesale prices to decline over a period of years. The wide spread between the prices charged by the manufacturer of these products and the cost of their ingredients makes such progressive reductions possible.

"Where minimum resale prices have been legally established, the prices charged by different retailers fall into a much narrower range and in some cases may approach complete uniformity. The absence of aggressive price cutting may also make it unnecessary for the manufacturer to readjust his prices to progressively lower levels."

(b) "Between November 1934 and January 1936 there were indications that the sequence of changes which had occurred between 1929 and 1934 might be repeated. The number of quotations at full list declined, those at the usual cut price of 12 cents increased rapidly, and an appreciable number of stores charged a 'deep cut' price of 10 cents or even 8 cents.

"In the absence of resale price maintenance, it is entirely possible that this would have led eventually to a new reduction at wholesale prices and a further drop at retail. From the point of view of the manufacturer such a change might well have been feasible because the cost of the ingredients of this pharmaceutical, as in the case of most widely advertised proprietary medicines, is quite small in relation to its wholesale price.

"However, resale price maintenance was held constitutional by the United States Supreme Court during December 1936 and minimum price contracts for this product are now in effect in 44 States. As a result, sales below the 12-cent minimum became less frequent after 1936 and have now been completely discontinued by retailers reporting to the Bureau of Labor Statistics, including even those located in areas in which price maintenance legislation is not in effect. The most common price at the present time is the minimum price and the number of quotations at the full list price has continued to decline. In this last respect, however, it is questionable whether the establishment of the legal minimum of 12 cents did more than confirm a trend which has been evident since 1934. The evidence available is insufficient to indicate whether the establishment of a legal minimum either retarded or accelerated this trend; it did, however, set a limit beyond which it cannot go, and possibly obviated the need for a periodic readjustment of the wholesale level to compensate for the progressive breakdown of the retail price structure."

On Monograph No. 16, entitled "Anti-Trust in Action", written by Professor Walton Hamilton of Yale University Law School, and Irene Till, Social Science Analyst of the T. N. E. C., we note on page 11, in commenting upon the Tydings-Miller Amendment to the Sherman Antitrust Act, in a footnote, the following statement: "This proviso easing the way for a manufacturer who would price-fix a trade-marked good can hardly be referred to as a deliberate act of legislation since it was sneaked through as a rider to an appropriation bill."

In this case the language is intemperate in the extreme, and the statement as a whole is not in accordance with the facts. The Tydings Miller act received the overwhelming approval of the Judiciary Committees of the House of Representatives and the Senate of the United States. It was approved by the House of Representatives as a separate piece of legislation by an overwhelming vote and when it was reported to the Senate calendar with a favorable report by the Senate Judiciary Committee, it was the subject of a one-man filibuster against it on the part of Senator William H. King, of Utah. As a last resort, and after exhausting all other means to secure consideration by the Senate, Senator Tydings attached the bill as a rider to a piece of District of Columbia legislation. This action was approved by the Senate of the United States. It was given further stamp of approval by the Conference on the District of Columbia bill between the two Houses of Congress and was signed by the President. The use of the term "sneaked through" gives a wholly false impression to the casual reader of the monograph. It is submitted that this method of defeating a filibuster is a long-recognized practice in the Congress. It cannot be said on any basis of fact that the Congress of the United States did not approve the Tydings-Miller Act in an above-board fashion.

* * * * *

EXHIBIT 2814

U. S. BUREAU OF LABOR STATISTICS,
February 25, 1941.

REPLY TO BRIEF PRESENTED TO THE T. N. E. C. BY NATIONAL ASSOCIATION OF RETAIL DRUGGISTS ON RESALE PRICE MAINTENANCE

The National Association of Retail Druggists has presented a brief to the Temporary National Economic Committee in which it criticizes certain statements made in Monograph Number 1, *Price Behavior and Business Policy*, which was prepared by the Bureau of Labor Statistics. In a letter to Chairman O'Mahoney introducing this brief, it is stated that "the membership of the N. A. R. D. . .

have been greatly disturbed about the veiled attacks which have been and are still being made against the Fair Trade acts which are now on the statute books of forty-four states." The letter continues:

"While we condemn such deceptive use of these monographs, we do not minimize their effect and we must point out that for all practical purposes they contain thinly veiled attacks upon a segment of the approved public policy of the great majority of the States of the Union on the subject of resale price maintenance as embodied in the Fair Trade acts."

In reply, the Bureau of Labor Statistics desires to emphasize the fact that *Monograph No. 1* was concerned with resale price maintenance legislation only incidentally. The primary purpose of the monograph was to present for the use of the Temporary National Economic Committee a factual analysis of the problems of commodity price behavior. This was in strict compliance with the explicit request contained in the letter from the President to the Congress recommending the establishment of the Committee and indicating the fields upon which information was most needed.

In the course of the analysis, it became abundantly clear that prices in retail markets were as important a field of study as wholesale prices. Prices charged the ultimate consumer have long been a special concern of the Department of Labor. Consequently several sections of the monograph were devoted to an analysis of retail markets and to the problems of wholesale and retail distribution.

In any study of retail prices, of course, restrictions which have been imposed by law upon the freedom of retailers to reduce prices could not be neglected. In the drug and cosmetic field, in particular, the behavior of retail prices cannot be discussed except in terms of the resale price maintenance laws, and consequently these laws fell appropriately within the scope of the monograph.

In appraising these laws, as in all other respects, it should be again emphasized that the approach of this monograph is economic and not legal. It is concerned with examining what resale price maintenance legislation has meant to the consumer and how it has affected the price system generally, rather than with Federal or state laws as such. For this reason the conclusions which were reached were not presented in the form of definite legislative recommendations. On the other hand, the evidence is more than sufficient to justify the inference that resale price maintenance has raised prices in many instances and has interfered with price flexibility. On this point Commissioner Labin's letter transmitting this monograph to the Committee was not veiled but unequivocal:

"This report indicates that there are certain important rigidities in retail prices, which prevent them from being reduced freely, and to which this Committee may well direct its attention. I refer to the so-called fair-trade laws which have been enacted by 44 States and to the Miller-Tydings Enabling Act which legalizes resale price maintenance contracts in interstate commerce."

The brief presented by the National Association of Retail Druggists offers no reason for changing this unqualified appraisal. In fact there is no single specific factual conclusion reached by the monograph which is directly disproved or even questioned.

In its attack upon the monograph, the brief first quotes a paragraph which describes the nature of the price information regularly compiled by the Retail Price Division of the Bureau of Labor Statistics. This quoted paragraph was inserted for the express provision of carefully qualifying the scope of the data. It indicates the care which was taken to insure presenting a balanced, unbiased picture.

The brief then quotes two passages from the monograph and argues that the data presented are too limited to warrant drawing conclusions "which reflect unfavorably upon existing legislation and upon those who distribute the products referred to."

It is difficult for an unbiased observer to find any implication in the statement quoted which in any way reflects unfavorably upon the retail merchant who is exercising rights which have been conferred upon him by law. Unfortunately the brief of the Association fails to point out the specific conclusions or inferences to which objection is raised. Consequently it may be well to recapitulate the main points in the passages quoted with which the N. A. R. D. takes issue:

1. "Because of the difficulty encountered by the average consumer in comparing the merits of rival drugs and toiletries, competition between manu-

facturers has centered largely upon advertising, trade marks and attractive packaging."

This merely states what is common knowledge among all informed observers. The Standard Statistics Company, for example, reports as a matter of course in a financial analysis of this industry, that advertising outlays of proprietary drug producers "are the largest single cost item, normally accounting for from 25 to 35 percent of the average proprietary company's sales dollar."¹ As regards cosmetics the same source observed, "the cosmetic industry is largely dependent upon advertising and promotion policies for sales maintenance" and while no specific estimate of advertising costs in relation to sales is given, it seems logical to assume that the ratio would be at least as high as that for proprietary drugs. Total advertising expenditures for 1939 in newspapers, farm magazines, other magazines and radio networks for medicinal and toilet preparations was almost 70 million dollars in 1939, materially exceeding the amount expended by the automotive industry, and second only to the 91 million dollars expended by the very much larger grocery industry.² It can hardly be contended that routine information of the financial community is news unfit to print in an analysis of consumer problems.

2. The next quotation from the monograph with which the National Association of Retail Druggists takes issue is as follows:

"At the same time, it is to the manufacturer's advantage to do all that he can to enlist the active sales cooperation of the retailer in pushing his particular product. As a result many manufacturers have adopted the policy of guaranteeing attractive margins to wholesalers and to retailers by fixing minimum resale prices for their products under the provisions of state resale price-maintenance statutes (the so-called fair-trade laws)."

These statements, too, seem self-evident. Retail druggist trade associations have been foremost in seeking to convince manufacturers of the need to seek retailers' sales cooperation actively. Many retailers have brought concentrated pressure upon the manufacturers who were slow to recognize their dependence upon the retailers' goodwill. Evidence as to the character and effects of this pressure is presented on pages 88 and 89 of the monograph. It is difficult to see how the National Association of Retail Druggists can take exception to statements which incorporate their own approach to manufacturers on the question of resale price maintenance. The secretary of the association which has submitted this brief offered the following advice to druggists in the official publication of the association:

"The manufacturers of this country should realize that they must pay a reasonable cost for the distribution of their products and they should adjust their price structures so that they will provide a fair margin of profit (for retailers). You will find many fair-trade manufacturers who are merely giving lip service, as they have done in former years; but you should not have any difficulty in picking them out. I believe that you should accord manufacturers cooperation in keeping with their sincerity and cooperation with you."³

3. The brief next quotes statements in the monograph to the effect that in the absence of resale price maintenance there is often a wide variation in prices charged by different druggists for the same product and that when minimum resale prices have been legally established the prices charged by different retailers fall into a much narrower range, and in some cases may approach complete uniformity. But this merely states the obvious. Naturally, there is more variation in price when no minimum is set than after a minimum has been established. In fact, the direct and immediate purpose of establishing minimum resale prices is to eliminate extreme variation.

4. Nor can any valid objection be made to the statement that "the wide spread between the price charged by the manufacturer of these products and the cost of their ingredients makes such progressive (price) reductions possible." That there is an extremely wide spread between the ingredient cost and wholesale and retail prices for proprietary drugs and cosmetics is amply demonstrated in the tables on

¹ *Standard Trade and Securities*, Basic Survey, Part I, "Medicines, Drugs, etc." January 24, 1940, Vol. 95, No. 7, Section 3.

² Estimate of the Topics Publishing Company, compiled from Publishing Information Bureau and Media Records.

³ National Association of Retail Druggists Journal, October 6, 1938.

pages 81 to 83 of the monograph. These tables, all quoting independent sources, show the aggregate cost of an ounce of eleven typical drugs sold at wholesale under their proprietary names was \$28.95, whereas the same drugs may be purchased under their standard chemical names for only \$4.59. These tables also indicate that the retail price of many leading cosmetics is 8 or more times the retail cost of their ingredients. Certainly this would suggest that "progressive price reductions" for these commodities are readily possible.

Again it should be emphasized that retailers, who are simply abiding by the provisions of the law, are in no way to blame for these wide spreads. The point is that resale price maintenance, by preventing price competition at retail, protects the manufacturer from the sort of pressure that can most effectively bring prices more in line with production costs.

5. Another quotation from the monograph reproduced in the brief consists of a description of the price trend for a nationally advertised brand of analgesic tablets between 1929 and 1939. This description is based upon an analysis of Bureau of Labor Statistics retail price data and does, therefore, depend upon the representative character of those data. The prices used were reported from stores all over the United States, and the uniformity of trends in all States and all regions is very striking. The stores were selected by the Bureau for the purpose of compiling data regarding the cost of living of wage earners and lower-salaried workers and not for the direct purpose of analyzing the effects of resale price maintenance. For this very reason, the statistics presented are of considerably more value than if they represented a survey made for the specific purpose of proving a definite thesis.

Studies made by Dr. Ewalt T. Grether of the University of California, by Edgar H. Gault of the University of Michigan, and by many other independent authorities all show that resale price maintenance has raised prices substantially in many stores. It may suffice, however, merely to quote from the druggists themselves, who, while publicly proclaiming that price maintenance has not raised prices, nevertheless do not hesitate to applaud the price increases which have been achieved in statements designed exclusively for their own membership. For example:

"A comparison of the prices 20 items, selected at random from advertisements in Texas newspapers, has been publicized by the Louisiana State Pharmaceutical Association to its membership. It was brought out that fair trade is bringing the Louisiana druggist an average of 16.3 cents per item more than the Texas retailer gets for his merchandise."⁴

In view of the fact that all the statements made in the monograph can thus be amply supported not only on the basis of statistical data in the monograph, but also with ample testimony from other sources including the drug industry itself, there remains no reason for retracting or modifying in any particular any of the conclusions reached. However, since the brief raises certain general issues, some concerning economic policy, it may be well to go further and to examine other statements made in the brief in the light of known available facts.

(a) It is asserted that the privilege conferred by the Act is "purely voluntary in that a trade-mark owner, producer or distributor may or may not avail himself of the privilege as he sees fit. The determination of the language of minimum resale price contracts together with the minimum price provision is entirely the responsibility of the party who offers the contract." There is nothing voluntary about the laws as they apply to the individual retailer; he must observe the prices set by the manufacturer whether he likes them or not, and whether he, individually, has signed the contract or not. Nor is the manufacturer in any real sense a free agent in deciding whether or not to avail himself of the privilege afforded by the laws. The monograph itself calls attention to the situation in the following quotation from an article in *Printer's Ink* in which the sales manager of a drug manufacturer explains to a critic why manufacturers issue price maintenance contracts:

"If he has followed the history of the fair-trade movement he should know that the laws were forced through by independent retailers; that very few manufacturers have taken an active part in obtaining passage. He should know, also, that in the drug and cosmetic fields many manufacturers are being compelled to operate under these laws against their wishes and better judgment. Pressure is being brought to bear through the retailers' associations and their fair-trade committees.

⁴ Drug Topics, September 11, 1939.

"Manufacturers who do not file minimum prices are having their troubles with independent outlets in some States. Those manufacturers, such as ourselves, who have filed prices have had to set higher minimums than they desired in some instances. The committees are not permitted, supposedly, by law to dictate what the minimum prices shall be but they are doing just that by refusing to approve contracts containing prices which do not give the retailer what they consider to be a fair-profit margin. In most cases the committees are insisting on a mark-up of at least 20 percent and usually 33¼ percent."⁵

Again, the magazine, *Advertising and Selling* of August 26, 1937, in an article entitled "Price Maintenance Goes National" makes the following statement:

"Star chamber proceedings frequently occur in negotiations between State fair-trade committees and producers. Boycotts, both potential and actual, are the tools employed by the retailers to bring the manufacturers in line. In California one producer (Pepsodent Co.) received such a powerful boycott on his product after he canceled his fair-trade contract that he found it politic not only to domicile in the State and issue another contract, but to give to the National Association of Retail Druggists a \$25,000 check to add to its fair-trade kitty * * *."

These are not isolated instances. An examination of the trade press over the past few years reveals many other examples of the way in which manufacturers are being coerced into the issuance of "voluntary" contracts or into stipulating minimum resale prices which organized retailers consider satisfactory.

(b) The brief contends, nevertheless, that the "limits on activity under the Fair Trade Acts are ample and comprehensive" because the Acts prohibit horizontal agreements as to prices between manufacturers or between wholesalers or retailers. In fact, there is no need for wholesalers or retailers to agree among themselves about prices since the law itself imposes upon them the duty of observing the prices stipulated in the manufacturers' contracts. To prohibit distributors from doing what they are required by law to do is pointless.

Nor does the provision that manufacturers may not agree among themselves appear much more effective. An examination of the price contracts in force in most States reveals a high degree of uniformity in the minimum prices set by competing manufacturers for similar products. This is only natural, since most manufacturers negotiate with the state "Fair Trade Committees" before issuing price maintenance contracts, and since these committees are likely to recommend identical mark-ups and minimum prices for products of the same class. In some cases, moreover, manufacturers may refuse to stipulate minimum prices for their products unless they are assured that rival manufacturers will do likewise. In effect, therefore, the local Fair Trade Committee becomes a sort of intermediary between competing manufacturers, and the law, while prohibiting direct collusion between manufacturers, leaves the way open for equally effective agreements through the mediation of the Fair Trade Committees.

(c) The brief stresses the fact that the acts are limited to commodities which are "in free and open competition with commodities of the same general class produced and distributed by others." It has been frequently argued by proponents of resale price maintenance that this clause safeguards competition among manufacturers and that the establishment of inordinately high resale prices by any manufacturers will be prevented because of the availability of similar products manufactured by others. This completely overlooks the fact that competition between trade-marked commodities such as drugs and cosmetics, with whose content and intrinsic value the average consumer is unfamiliar, cannot in its nature be effective as a means of keeping prices down.

For example, the minimum price for a leading brand of aspirin is set by contract at 59 cents per 100 tablets, whereas competing brands packaged by well-known reputable manufacturers regularly sell for anywhere from 19 to 39 cents a hundred and may on occasion be obtained for as little as 8 cents a hundred. If horizontal competition of this kind were in fact effective, it is clear that such extreme price differentials could not be maintained. The comparison between the prices of standard drugs sold under their proprietary names and under their chemical designations which has been referred to earlier, also illustrates the futility of this sort of horizontal competition as a safeguard to the consumer.

⁵ Monograph 1, pp. 88-89.

This point is further emphasized by the lengthy quotation from the *American Druggist*, a recognized organ of the drug trade, which is quoted on pages 381 to 382 of the monograph. In effect this editorial urges druggists to avoid offering consumers satisfactory substitutes for expensive advertised brands. Once druggists have been guaranteed large mark-ups by manufacturers of widely advertised brands, it is to their interest to prevent the prices of those brands from being depressed by equally satisfactory but less widely advertised substitutes. The facts speak for themselves: the very wide margins which exist today between the prices of widely advertised drugs and cosmetics and their costs of production is a clear indication that horizontal competition between manufacturers of articles of this kind cannot in its nature be effective in keeping prices down.

(d) In its treatment of the basic economic problems involved in resale price maintenance, the brief submitted by the National Association of Retail Druggists is not complete. Thus, this section of the brief begins with the following statement:

"The purpose of the Fair Trade Acts is simple. They do nothing more than to provide a constitutional remedy against the recognized evils of predatory price cutting and loss leader selling."

Despite the fact that the stated purpose of the Fair Trade Acts may have been to provide "a constitutional remedy against predatory price cutting and loss leader selling," the fact is that, in reality, they grant a completely unregulated license to manufacturers to fix the resale prices of their products at any level they wish. Once a manufacturer has signed a contract under the Fair Trade Laws with any single retailer within a State, its provisions automatically become binding upon all other retailers.

Finally, the brief concludes with the following statement:

"It may well be that the nation-wide system of Fair Trade Acts is not the perfect remedy for the evils they are designed to mitigate, but as we have said it is the only effective, constitutional method that has yet been devised. With this in mind, it is incumbent upon the agencies of the Federal Government who look with disfavor upon the Fair Trade laws, to come forward with an alternative method to meet the problem which forty-four States have deemed worthy of serious attention. The federal agency which offers destructive criticism only renders a disservice to the states."

This contention is, to say the least, somewhat surprising. Monograph No. 1 is, as has been said, purely an economic study and it did not presume to recommend legislative policy. The monograph was concerned with the economic effects of price behavior and of business price policy. In the course of this appraisal it necessarily considered the economic consequences and implications of laws which limit the freedom of price competition. Moreover, the alleged evils at which resale price maintenance is directed are far from patent; there is no clear evidence that loss leader selling or predatory price cutting are either widespread enough or serious enough to require special legislation for its prevention.

In view of the specific nature of the challenge contained in the brief, however, it may be pointed out that a completely unregulated license to fix resale prices is a somewhat drastic remedy for sporadic cases of loss leader selling or "predatory price cutting." Surely the constitution offers other possibilities for dealing with these problems—if they are indeed serious enough to require specific remedies.

If it is really desired merely to prevent predatory price cutting of the loss leader type, it would seem entirely feasible to devise a law for that precise purpose, as for example by directly prohibiting sales below invoice cost with the intent or effect of injuring competition. It should also be entirely possible to amend the non-signer clause in the present act by allowing any retailer not a party to the contract to defend himself against the charge of unfair competition by proving that the price he charged is in fact above his invoice cost. These suggestions—they are not recommendations—assume, of course, that the purpose of resale price maintenance is the ostensible one stated in the brief—to prevent "predatory price cutting and loss leader selling."

TABLE SUPPLEMENTING TNEC MONOGRAPH No. 9,
"TAXATION OF CORPORATE ENTERPRISE"
BY CLIFFORD J. HYNNING, DEPART-
MENT OF COMMERCE

18073



The following table was omitted from Monograph 9, "Taxation of Corporate Enterprise," by Clifford J. Hynning, Department of Commerce. It serves as the basis for Charts XIX and XXI.

Federal Undistributed Profits and Excess-Profits Taxes and Credits, by Size Classes and Industries, 1937

Size classes based on total assets (in thousands)	Surtax on undistributed profits as percentage of		Cash dividends paid out as percentage of corporate profits	Excess-profits taxes percentage of		Total tax as percentage of corporate profits ⁴
	Corporate profits	Taxable net income ¹		Corporate profits	Taxable net income ²	
Manufacturing:						
Under \$50.....	3.0	3.4	54.8	1.8	1.8	14.6
\$50-\$100.....	3.0	3.4	57.6	1.7	1.7	15.1
\$100-\$250.....	3.2	3.7	61.3	1.4	1.4	16.0
\$250-\$500.....	3.3	3.8	61.7	1.2	1.2	16.9
\$500-\$1,000.....	3.5	4.2	59.9	.9	.9	17.6
\$1,000-\$5,000.....	3.3	3.9	60.9	.8	.9	17.9
\$5,000-\$10,000.....	3.1	3.7	63.1	.7	.8	17.6
\$10,000-\$50,000.....	2.1	2.5	70.8	.5	.5	16.1
\$50,000-\$100,000.....	1.1	1.3	79.4	.2	.2	14.7
Over \$100,000.....	1.5	1.7	77.9	.2	.2	13.7
Food:						
Under \$50.....	3.0	3.4	55.5	1.8	1.8	14.1
\$50-\$100.....	3.2	3.6	57.4	1.1	1.1	14.2
\$100-\$250.....	2.7	3.1	64.9	.8	.9	14.5
\$250-\$500.....	2.8	3.3	67.3	.7	.7	15.4
\$500-\$1,000.....	2.8	3.2	66.2	.4	.4	15.8
\$1,000-\$5,000.....	2.6	3.1	72.3	.6	.6	16.8
\$5,000-\$10,000.....	2.5	2.9	65.0	.1	.1	16.3
\$10,000-\$50,000.....	.8	1.0	91.3	(³)	(³)	14.4
\$50,000-\$100,000.....	.1	.2	89.9	.1	.1	13.4
Over \$100,000.....	(³)	.1	103.3			11.3
Beverages:						
Under \$50.....	1.2	1.3	72.4	1.3	1.3	13.5
\$50-\$100.....	1.9	2.1	69.6	1.4	1.4	14.9
\$100-\$250.....	2.7	3.1	66.4	1.3	1.3	16.7
\$250-\$500.....	2.0	2.4	68.3	.9	.9	16.4
\$500-\$1,000.....	3.7	4.4	59.1	.3	.3	17.6
\$1,000-\$5,000.....	4.2	4.9	53.1	.5	.6	18.9
\$5,000-\$10,000.....	7.5	8.9	40.2	.4	.5	22.4
\$10,000-\$50,000.....	4.3	5.1	63.1	1.0	1.1	19.0
\$50,000-\$100,000.....	1.0	1.2	71.8	.04	.04	15.0
Over \$100,000.....						
Tobacco:						
Under \$50.....	1.6	1.8	82.0			11.5
\$50-\$100.....	2.9	3.3	51.4	1.4	1.4	12.9
\$100-\$250.....	1.3	1.4	84.6	.8	.9	13.0
\$250-\$500.....	1.6	1.9	66.5	2.7	2.9	15.2
\$500-\$1,000.....	2.8	3.2	67.5	.4	.4	16.1
\$1,000-\$5,000.....	3.4	4.1	70.4	.3	.4	17.6
\$5,000-\$10,000.....	4.5	5.2	69.5	.8	.9	18.4
\$10,000-\$50,000.....	2.4	2.6	75.4	.2	.2	16.1
\$50,000-\$100,000.....						14.6
Over \$100,000.....						14.2
Textiles:						
Under \$50.....	4.1	4.7	34.3	1.2	1.2	14.8
\$50-\$100.....	3.5	4.3	48.8	1.1	1.1	13.7
\$100-\$250.....	3.1	3.5	58.5	1.1	1.1	15.1
\$250-\$500.....	3.5	4.1	65.8	1.1	1.2	16.7
\$500-\$1,000.....	3.2	3.7	65.8	.9	.9	16.9
\$1,000-\$5,000.....	3.3	3.8	66.4	.6	.6	17.3
\$5,000-\$10,000.....	2.9	3.4	70.2	.6	.6	17.2
\$10,000-\$50,000.....	2.0	2.4	81.9	.4	.5	16.0
\$50,000-\$100,000.....						
Over \$100,000.....						

See footnotes at end of table.

Federal Undistributed Profits and Excess-Profits Taxes and Credits, by Size Classes and Industries, 1937—Continued

Size classes based on total assets (in thousands)	Surtax on undistributed profits as percentage of		Cash dividends paid out as percentage of corporate profits	Excess-profits taxes percentage of		Total tax as percentage of corporate profits
	Corporate profits	Taxable net income		Corporate profits	Taxable net income	
Clothing:						
Under \$50.....	4. -	4.5	37.5	1. -	1.1	14.1
\$50-\$100.....	3.6	4.1	47.2	1.3	1.3	15. -
\$100-\$250.....	3.3	3.7	58.6	.8	.8	15.2
\$250-\$500.....	3.6	4.1	57.8	.3	.3	15.4
\$500-\$1,000.....	2.9	3.3	72.4	.2	.3	16.1
\$1,000-\$5,000.....	2.9	3.4	66.2	(*)	(*)	16.2
\$5,000-\$10,000.....	.4	.5	90.3			13.3
\$10,000-\$50,000.....	(*)	(*)	102.6			13.7
\$50,000-\$100,000.....						
Over \$100,000.....						
Leather:						
Under \$50.....	3.8	4.2	43. -	1.2	1.2	14.3
\$50-\$100.....	3.8	4.3	50.5	1.3	1.3	15.2
\$100-\$250.....	3.9	4.5	58.6	1.1	1.1	16.2
\$250-\$500.....	2.6	2.9	71.3	.8	.8	14.9
\$500-\$1,000.....	3.1	3.5	67.7	.5	.5	15.7
\$1,000-\$5,000.....	2.2	2.5	80.1	.1	.2	15.9
\$5,000-\$10,000.....	1.8	2.1	79.8			15.4
\$10,000-\$50,000.....	.2	.2	121.5			
\$50,000-\$100,000.....						
Over \$100,000.....						
Rubber:						
Under \$50.....	4.9	4.9	39.0	3.0	3.4	17.0
\$50-\$100.....	2.4	2.7	58.3	1.0	1.2	14.2
\$100-\$250.....	3.0	3.4	57.6	.3	.4	14.8
\$250-\$500.....	3.7	4.3	58.8	1.0	1.2	17.4
\$500-\$1,000.....	5.0	5.8	51.7	1.3	1.5	19.4
\$1,000-\$5,000.....	3.6	4.2	58.7	.5	.6	18.2
\$5,000-\$10,000.....	5.5	6.4	58.9	.3	.3	19.8
\$10,000-\$50,000.....	3.3	3.8	65.9			16.4
\$50,000-\$100,000.....						
Over \$100,000.....						
Forest Products:						
Under \$50.....	3.3	3.8	49.4	2.3	2.6	14.8
\$50-\$100.....	2.7	3.1	52.6	2.2	2.5	15.0
\$100-\$250.....	3.0	3.4	62.6	1.5	1.8	15.5
\$250-\$500.....	2.3	2.6	67.1	1.4	1.9	15.7
\$500-\$1,000.....	2.3	2.7	66.4	1.3	1.5	16.1
\$1,000-\$5,000.....	2.0	2.3	71.5	.9	1.1	15.9
\$5,000-\$10,000.....	4.5	5.2	62.4	.2	.2	17.8
\$10,000-\$50,000.....	1.5	1.8	56.3	.2	.3	
\$50,000-\$100,000.....						
Over \$100,000.....						
Paper:						
Under \$50.....	3.7	4.2	46.2	1.2	1.4	14.5
\$50-\$100.....	3.1	3.5	54.1	.6	.7	13.6
\$100-\$250.....	3.5	4. -	54.3	.8	.9	15.6
\$250-\$500.....	4.3	5. -	54.0	.7	.8	17.5
\$500-\$1,000.....	3.6	4.2	57.5	.9	1.1	17.4
\$1,000-\$5,000.....	3.8	4.5	56.4	.6	.7	17.9
\$5,000-\$10,000.....	2. -	2.4	64.8	.4	.5	16.4
\$10,000-\$50,000.....	2.4	2.9	57.7	.3	.4	16.3
\$50,000-\$100,000.....	2.6	3.0	65.8	.3	.4	
Over \$100,000.....	1.0	1.1	94.9			
Printing:						
Under \$50.....	3.1	3.5	53.0	1.4	1.5	14.0
\$50-\$100.....	2.6	3. -	62.6	.7	.8	13.5
\$100-\$250.....	2.7	3.1	65.1	.7	.8	14.7
\$250-\$500.....	2.9	3.4	65.1	.6	.7	15.7
\$500-\$1,000.....	2.8	3.3	68.4	.3	.4	16.0
\$1,000-\$5,000.....	2.7	3.2	64.7	.2	.3	16.2
\$5,000-\$10,000.....	1.8	2.2	70.1	.2	.3	15.0
\$10,000-\$50,000.....	2.9	3.3	65.2	.2	.3	14.8
\$50,000-\$100,000.....			98.9		.3	
Over \$100,000.....	1.5	1.6	77.8			

See footnotes at end of table.

Federal Undistributed Profits and Excess-Profits Taxes and Credits, by Size Classes and Industries, 1937—Continued

Size classes based on total assets (in thousands)	Surtax on undistributed profits as percentage of		Cash dividends paid out as percentage of corporate profits	Excess-profits taxes percentage of		Total tax as percentage of corporate profits
	Corporate profits	Taxable net income		Corporate profits	Taxable net income	
Chemicals:						
Under \$50.....	3.0	3.3	57.8	1.5	1.5	14.1
\$50-\$100.....	2.5	2.9	63.6	1.5	1.5	14.5
\$100-\$250.....	2.6	3.-	68.5	1.2	1.2	15.4
\$250-\$500.....	2.3	2.7	69.7	.6	.6	15.6
\$500-\$1,000.....	2.9	3.-	67.7	.5	.5	16.8
\$1,000-\$5,000.....	1.8	2.1	74.6	.3	.4	15.5
\$5,000-\$10,000.....	1.6	1.9	73.1	.5	.5	15.4
\$10,000-\$50,000.....	1.0	1.2	78.8	.1	.2	14.3
\$50,000-\$100,000.....	1.7	2.-	69.1			14.4
Over \$100,000.....	1.0	1.1	77.3	(¹)	(¹)	11.2
Petroleum:						
Under \$50.....	2.5	2.8	57.0	1.7	1.7	13.2
\$50-\$100.....	1.7	2.-	75.1	3.4	3.4	15.8
\$100-\$250.....	3.1	3.6	77.5	1.1	1.1	16.8
\$250-\$500.....	2.4	2.8	59.0	.6	.6	15.6
\$500-\$1,000.....	2.1	2.5	57.7	.5	.5	16.5
\$1,000-\$5,000.....	3.5	4.1	59.7	.6	.7	17.3
\$5,000-\$10,000.....	.6	.8	90.1	1.1	1.2	15.4
\$10,000-\$50,000.....	1.7	2.-	85.9	.3	.3	15.9
\$50,000-\$100,000.....	1.4	1.6	103.8	1.6	2.0	14.3
Over \$100,000.....	1.1	1.2	92.9	.4	.2	10.4
Stone, Clay, and Glass:						
Under \$50.....	3.3	3.8	54.4	2.4	2.4	14.9
\$50-\$100.....	2.5	2.8	61.8	1.4	1.5	14.1
\$100-\$250.....	2.7	3.1	62.3	1.2	1.2	15.2
\$250-\$500.....	3.2	3.7	59.3	1.1	1.1	16.8
\$500-\$1,000.....	3.0	3.6	59.3	1.2	1.2	17.4
\$1,000-\$5,000.....	2.5	3.-	66.0	.8	.8	17.0
\$5,000-\$10,000.....	2.8	3.3	65.1	.2	.2	16.5
\$10,000-\$50,000.....	1.3	1.5	74.2	.3	.3	18.0
\$50,000-\$100,000.....	.9	1.0	74.9			
Over \$100,000.....	1.8	2.2	66.9	.9	1.0	
Metals:						
Under \$50.....	3.2	3.6	57.2	2.5	2.5	18.8
\$50-\$100.....	3.6	4.1	53.0	2.3	2.3	16.5
\$100-\$250.....	3.7	4.3	57.2	2.0	2.0	17.2
\$250-\$500.....	3.9	4.6	55.7	1.7	1.8	18.2
\$500-\$1,000.....	4.4	5.3	51.4	1.4	1.5	19.2
\$1,000-\$5,000.....	4.0	4.8	53.4	1.3	1.4	19.2
\$5,000-\$10,000.....	3.6	4.3	58.4	1.0	1.1	18.6
\$10,000-\$50,000.....	2.4	3.-	64.7	.9	1.0	17.1
\$50,000-\$100,000.....	1.8	2.1	66.8	.2	.2	16.0
Over \$100,000.....	2.2	2.6	69.4	.4	.5	15.7
Motor Vehicles:						
Under \$50.....	2.5	2.8	56.6	1.8	2.0	14.7
\$50-\$100.....	1.5	1.7	66.9	1.3	1.4	14.3
\$100-\$250.....	3.8	4.4	58.1	1.9	2.2	17.4
\$250-\$500.....	5.4	6.3	48.8	.7	.8	19.2
\$500-\$1,000.....	3.0	3.5	55.1	.5	.6	17.2
\$1,000-\$5,000.....	3.1	3.7	61.1	.5	.6	17.9
\$5,000-\$10,000.....	3.1	3.8	51.9	2.4	3.0	19.8
\$10,000-\$50,000.....	3.2	3.8	56.7	.1	.1	17.7
\$50,000-\$100,000.....	.4	.5	82.9	.6	.7	12.9
Over \$100,000.....	1.8	2.1	67.9			15.2
Trade:						
Under \$50.....	3.5	3.9	46.6	1.7	1.9	14.3
\$50-\$100.....	3.1	3.5	54.1	1.3	1.5	14.5
\$100-\$250.....	3.1	3.6	59.3	1.2	1.3	15.9
\$250-\$500.....	3.2	3.7	62.9	1.0	1.1	15.9
\$500-\$1,000.....	3.6	4.1	63.1	.6	.7	16.7
\$1,000-\$5,000.....	3.4	4.-	62.0	.7	.8	17.5
\$5,000-\$10,000.....	2.3	2.7	68.5	.4	.5	16.2
\$10,000-\$50,000.....	2.6	3.-	69.8	.4	.5	16.5
\$50,000-\$100,000.....	1.3	1.5	76.1	(¹)	(¹)	14.1
Over \$100,000.....	1.8	2.1	74.1	(¹)	(¹)	14.5

See footnotes at end of table.

Federal Undistributed Profits and Excess-Profits Taxes and Credits, by Size Classes and Industries, 1937—Continued

Size classes based on total assets (in thousands)	Surtax on undistributed profits as percentage of		Cash dividends paid out as percentage of corporate profits	Excess-profits taxes percentage of		Total tax as percentage of corporate profits
	Corporate profits	Taxable net income		Corporate profits	Taxable net income	
Service:						
Under \$50.....	2.6	2.9	60.1	1.6	1.6	14.3
\$50-\$100.....	2.9	3.3	61.1	1.1	1.1	14.7
\$100-\$250.....	2.9	3.3	64.6	.9	1.0	15.0
\$250-\$500.....	3.5	4.-	63.7	.8	.8	15.9
\$500-\$1,000.....	3.0	3.5	65.2	.7	.7	15.7
\$1,000-\$5,000.....	2.7	3.2	65.2	.5	.5	15.9
\$5,000-\$10,000.....	3.1	3.5	61.2	3	.4	15.7
\$10,000-\$50,000.....	1.9	2.2	78.2	(3)	(3)	13.9
\$50,000-\$100,000.....	.8	.9	83.4			13.6
Over \$100,000.....						
Construction:						
Under \$50.....	3.7	4.2	43.3	2.7	3.0	15.8
\$50-\$100.....	3.5	4.-	58.6	2.7	3.2	16.4
\$100-\$250.....	3.2	3.7	60.0	1.9	2.3	16.3
\$250-\$500.....	4.4	5.2	56.0	2.5	2.9	18.7
\$500-\$1,000.....	3.7	4.4	66.8	1.3	1.5	16.9
\$1,000-\$5,000.....	2.9	3.5	65.4	1.3	1.5	17.3
\$5,000-\$10,000.....	.9	1.1	67.4	.5	.6	13.8
\$10,000-\$50,000.....	5.7	7.0	34.7	.7	.8	
\$50,000-\$100,000.....	6.5	7.6	42.0			
Over \$100,000.....						
Public Utilities:						
Under \$50.....	2.8	3.2	58.1	1.8	2.0	14.1
\$50-\$100.....	2.9	3.3	69.8	1.5	1.8	15.1
\$100-\$250.....	3.1	3.5	64.6	.8	.9	15.6
\$250-\$500.....	2.4	2.8	67.7	.9	1.0	15.5
\$500-\$1,000.....	2.2	2.6	69.2	.7	.8	16.0
\$1,000-\$5,000.....	1.5	1.8	76.4	.6	.7	15.8
\$5,000-\$10,000.....	1.3	1.5	79.3	.4	.4	15.6
\$10,000-\$50,000.....	.6	.8	82.6	.2	.2	15.2
\$50,000-\$100,000.....	.4	.5	89.5	.2	.2	15.2
Over \$100,000.....	.4	.4	95.6	(3)	(3)	10.9
Finance:						
Under \$50.....	1.9	2.1	86.2	1.2	1.4	11.9
\$50-\$100.....	2.3	2.6	70.9	.8	.9	11.6
\$100-\$250.....	1.7	1.9	75.9	.7	.9	11.0
\$250-\$500.....	1.3	1.7	73.5	.4	.5	9.7
\$500-\$1,000.....	1.2	1.5	72.8	.3	.5	8.4
\$1,000-\$5,000.....	1.0	1.-	73.0	.2	.4	5.9
\$5,000-\$10,000.....	.9	1.2	69.6	.1	.2	6.3
\$10,000-\$50,000.....	.8	1.-	66.6	.1	.2	6.1
\$50,000-\$100,000.....	.9	1.-	80.8	(3)	.1	5.6
Over \$100,000.....	1.3	1.6	77.1	(3)	.1	4.8
Total:						
Under \$50.....	2.9	3.2	59.9	1.7	1.7	14.0
\$50-\$100.....	2.9	3.3	60.4	1.4	1.5	14.5
\$100-\$250.....	2.9	3.3	64.6	1.2	1.2	14.9
\$250-\$500.....	2.9	3.4	65.3	1.0	1.1	15.4
\$500-\$1,000.....	3.0	3.5	64.8	.7	.8	15.5
\$1,000-\$5,000.....	2.6	3.2	65.9	.7	.8	15.3
\$5,000-\$10,000.....	2.3	2.7	67.9	.5	.6	14.4
\$10,000-\$50,000.....	1.6	1.9	72.6	.4	.5	13.6
\$50,000-\$100,000.....	.9	1.1	81.8	.1	.2	11.9
Over \$100,000.....	1.2	1.4	81.7	.1	.2	10.6

¹ Taxable income consists of compiled net profits less (a) all interest received on governmental obligations and (b) the amounts of the normal and excess-profits taxes.

² Taxable income consists of compiled net profits less (a) wholly tax-exempt interest and (b) 85% of dividends received.

³ Less than 0.05%.

⁴ Includes normal corporate income tax, excess-profits tax, and surtax on undistributed profits.

Source: Computed from the Sourcebook of the Statistical Section of the Bureau of Internal Revenue.

LETTER FROM THE AMERICAN TARIFF LEAGUE

WITH CRITICISM OF TNEC MONOGRAPH NO. 10,
"INDUSTRIAL CONCENTRATION AND TARIFFS" BY
CLIFFORD L. JAMES, ASSOCIATE PROFESSOR OF ECO-
NOMICS, OHIO STATE UNIVERSITY, AND REPLY TO
CRITICISM BY DR. JAMES

THE AMERICAN TARIFF LEAGUE

Incorporated July 13, 1885

19 West 44th Street, New York

OFFICER OF THE SECRETARY,
February 20, 1941.

Dr. DEWEY ANDERSON,
*Executive Secretary, Temporary National Economic Committee,
Federal Trade Building, Washington, D. C.*

MY DEAR DR. ANDERSON: Enclosed you will find a copy of the statement we wish to file with the Temporary National Economic Committee with reference to Monograph Number 10 entitled "Industrial Concentration and Tariffs." We respectfully request that this statement be published in the volume which we understand is being held open for commentaries on the publications and proceedings relating to the Committee's activities.

As stated in previous correspondence, the purpose of this statement which we are filing is to set forth as briefly as possible the basis for our charge that the narrow limitations of the evidence presented and the complete absence of any explanation as to the bases for the conclusions drawn render the bulk of the report practically meaningless. We also believe that the form in which some of the material is presented will result in serious misinterpretation through the failure on the part of the lay reader to have observed the limitations admitted by the authors.

We appreciate that the report was prepared and published for the use of the Committee and does not in any way imply that they have approved of it in whole or in part. We are equally aware of the fact that the monographs prepared and published for the use of the Committee have received wide distribution and that they enjoy a very considerable prestige. We know that several of the monographs have contributed materially to the understanding of contemporary economic problems and we have abundant evidence that they are extensively used and quoted.

It is because of the wide acceptance and use of these monographs that we have entered our criticism of Monograph Number 10. We fully appreciate the difficulties under which the authors of this monograph have labored. This does not alter the fact that we believe that the technical difficulties were of sufficient magnitude as to render this monograph thoroughly unreliable as source material for the determination of public policy.

Very truly yours,

(Signed) WALTER R. PEABODY, *Secretary.*

WRP:W.

CRITICISM OF MONOGRAPH NO. 10, "INDUSTRIAL
CONCENTRATION AND TARIFFS"

STATEMENT OF PURPOSE

The purpose of this paper is to explain the bases for our strong objections to Monograph #10, "Industrial Concentration and Tariffs," prepared and printed for the use of the Temporary National Economic Committee. We believe that the extremely narrow limitations of the evidence presented and the complete absence of any explanation as to the bases for the conclusions drawn render the bulk of the report practically meaningless. We also believe that the form in which some of the material is presented will result in serious misinterpretation through failure on the part of the lay reader to have observed the limitations admitted by the authors.

BRIEF SUMMARY OF THE STUDY

The major part of the report is concerned with "a statistical analysis of the relationship between tariffs and monopolistic elements in domestic industries." A sample of 1,807 census products (accounting for approximately half of total

manufacturing production) is examined in terms of degree of industrial concentration and restrictive effect of tariffs. Findings are summarized in Chapter I and summary tables are reproduced in Appendix I. No detailed schedule of these products is given.

Products accounting for 34% of the total value of the sample are found to be characterized by a high degree of industrial concentration (i. e., 4 companies produce 75% or more of the total). The bulk of the report is concerned with these high-concentration products. 317 such products or groups of products are listed. Schedules of information for each of these products appear as Appendix II and account for 220 of the 320 pages of the report. Findings in respect to these products are summarized in Chapter II with particular reference to the probable effect of tariff changes on imports and domestic prices.

There are, in addition, "historical surveys of a few industries which showed a high degree of industrial concentration." The three industries surveyed in separate chapters are the gypsum industry, the flat glass industry, and the borates industry. There is also a chapter on the softwood lumber industry and the trade agreements. Finally, there is a chapter on consumers' cost from import restrictions which examines the cost to the consumer of the tariff on two products—sugar and rayon.

POINTS TO BE COVERED

Our criticisms are presented under three main headings. The first will deal with the inadequacies of the technique employed in making the survey of industrial concentration; and the effect of tariff changes. The second part relates to the implications of some of the general statements appearing in the report. The third part is a brief criticism of the technique employed in estimating consumers' cost from import restrictions. In addition, there is a short appendix containing excerpts from a few of the communications received by the American Tariff League concerning the Monograph.

PART I. CRITICISM OF CERTAIN BASIC ASPECTS OF THE STUDY OF INDUSTRIAL CONCENTRATION AND THE PROBABLE EFFECT OF TARIFF CHANGES

As noted above, the major part of Monograph #10 is concerned with "a statistical analysis of the relationship between tariffs and monopolistic elements in domestic industries."

The treatment accorded the large sample of 1,807 products is brief and unsupported by any detailed schedules of information. The products themselves are not listed and while the summary tables purport to show the "restrictive effect of tariffs" under three subheadings, "insignificant, moderate, and substantial," there is not one word of explanation as to how and on what evidence the classification of any product was made.

A more detailed examination is accorded 317 census products with a high degree of industrial concentration. This material is summarized in Chapter II and the so-called schedule of essential information is presented in Appendix II. The basis for the plan of investigation and the form of the schedules of information is described in the Monograph as follows:

"For each product, or closely related products, of the special study a brief schedule of essential information was prepared. First, it contained a short statement with regard to the description and use of the product. Second, in a tabular form the status of the industry in 1937 was presented, namely, the total number of companies and plants, the total value of domestic production and the percent supplied by the four largest companies, and the tariff status of the product (free, ad valorem rate, or equivalent ad valorem rate). Third, the recent tariff treatment of the product beginning with the act of 1913 was indicated. Fourth, if the duties were specific or partly so, an average ad valorem equivalent was calculated whenever possible for the years 1934-38, inclusive. Fifth, domestic production, imports, and exports on a value basis for the years 1935 and 1937 were indicated. Sixth, a brief statement was included of the factors which probably accounted for the industrial concentration and of the probable changes in imports and domestic prices which would follow a substantial reduction or removal of duties."¹ [Italics ours.]

¹ Monograph No. 10, page 6. The introductory clause of this quotation carried the following footnote: "Since many industries and companies produce a great variety of products and since the census data are for individual products, the study was confined largely to a product basis. Some times were grouped which explains in part the wide difference between the number of products in the 75-concentration group (840) and the number in the special study (317) and the smaller difference between the values of the two groups."

The "probable changes" in Domestic Prices.

The whole study hinges on the findings set forth under the sixth item above. For each of the 317 items in the appendix there appears a brief statement, ranging in length from four to occasionally nine or ten lines, which constitutes, in the words of the authors, a summary "of the factors which *probably* accounted for the industrial concentration and of the *probable* changes in imports and domestic prices which would follow a substantial reduction or removal of duties." [Italics ours.] There are several sound reasons for questioning the adequacy and accuracy of these summary statements. It is hard to see how they can be interpreted as anything more than the unsupported opinions of the authors of the Monograph. The basis for this blunt and severe criticism follows:

(1) Conclusions are reached as to probable price reactions following reductions in duty, but there is no evidence submitted anywhere in the study of the price behavior of the products which are analyzed.²

(2) There is no evidence of any study of the import prices of the commodities which would compete with the domestic articles.

(3) Nowhere in the Monograph is there any reference to other sources of information that may have been consulted, whether these sources be public documents that could be checked or private sources, the competency of whose information could at least be appraised.

(4) There is not even a statement or discussion of the type of evidence that was examined by the authors or the premises on which they proceeded to their conclusions.

The "probable changes" in Imports.

As noted above, for each product of the special study the Monograph included a statement as to the "* * * probable changes in imports and domestic prices which would follow a substantial reduction or removal of duties."

The previous criticisms of the failure to introduce evidence or to explain the basis for the authors' conclusions as to "probable changes in prices" apply equally to their speculations as to "probable changes in imports."

There is no discussion of the kind of evidence that was deemed important.

There is no statement of the nature of the unreported material that was examined.

The only information relating to the existence of foreign sources of supply that appears in the Monograph is a record of import figures for 1935 and 1937 for some of the products covered in the special study. No figures are available for a large number of the items. It is highly questionable whether some of the figures reported are for a class and kind of merchandise that is comparable with the census classification used. Such import figures as are given are value figures unsupported by any information concerning the quantity imported or the country or countries from which they come.

² The following quotation from "The Structure of the American Economy—Part I"—published by the National Resources Committee in June, 1939, indicated the significance of price behavior analysis:

"*Depression Sensitivity and tariffs.*—One more factor needs to be considered, the possible effect of tariffs upon price sensitivity. * * * From this chart it is clear that there is no general relation between insensitivity to depression and amount of tariff. * * * If anything, the sensitive items appear to have somewhat more tariff protection than the insensitive items. This does not mean that the tariff does not contribute to the insensitivity of certain items but it does mean that the tariff is not a major explanation of price insensitivity. How account for the differential sensitivity of prices to depression?"

* * * Because of the effect of this differential sensitivity in disorganizing economic activity, it is important to discover, if possible, what forces lie back of it. To find price insensitivity associated with one set of factors and sensitivity associated with another set does not give an adequate explanation of what brings about this differential sensitivity. It is still necessary to seek explanations of this behavior. * * *

"Attempts to answer this question have, up to the present, produced divergent explanations and the question is still moot. Yet the accumulating evidence appears to point to administrative controls as the dominant explanation. * * * There is an increasing literature discussing the theoretical possibility that, when the number of independent and competing producers supplying a particular market is relatively small, administrative controls over price may be exercised without any collusion between separate enterprises and without a single producer dominating the market. * * *

"*Relation of monopoly profits.*—Before proceeding to examine the evidence of administrative controls, it is necessary to give clear warning against confusing the presence of administrative controls over price with the presence of monopoly profits. In a particular case the administrative control over price may be sufficient to allow monopoly profits to be made. But in innumerable cases where there is some measure of administrative control over prices, there is not the opportunity to make monopoly profits. * * * Similarly, in manufacturing industries a large number of products are sold at a listed or posted price less standard discounts and the price is altered occasionally by altering the discounts or by revising the listed or posted price. Yet in a large number of these cases of administrative control over price, probably in the bulk of them, there is no problem of monopoly profits. In many cases of administered prices the enterprises are actually operating at a loss. Thus it must be clear that administrative control over prices does not necessarily involve monopoly profits. Rather, monopoly profits can arise only in the more extreme cases of administrative control or under special conditions. * * *"—National Resources Committee: The Structure of the American Economy—Part I. Basic Characteristics, pp. 138-140.

There is no indication of the degree of industrial concentration of foreign production of the products that the authors expect would be imported in greater quantities if duties were lowered. There is no examination of the "probability" that if the United States were to be dependent on foreign sources of supply the import prices of certain items would be higher than they are now. Granted that this would not result in many instances, the fact there is a limited market in the United States for many of the products covered by the special study³ suggests that the foreign markets may also be limited and foreign production highly concentrated.

It is unnecessary to proceed with a further detailing of objections to this part of the study. Even if the authors had been given the facilities and time to make the sort of study that would be free from the criticisms that properly apply to such a restricted study, it is hard to see how in view of the war the findings could be of more than academic interest. The study was undertaken before the occupation of Norway, the Netherlands, Belgium and France. No one today can predict what the political and economic set up of Europe will be after the war. The only safe prediction in this direction is that conditions will be vastly different from what we have known before. Increased industrial concentration abroad, new areas of production, and a long period of political management of exports are certainly distinct possibilities.

Industrial Concentration as a Measure of Monopolistic Elements.

In both the summary and the special study the Monograph uses industrial concentration as an indicator of monopolistic elements in an industry.

The authors of the Monograph have themselves pointed out several serious weaknesses in this approach. On the first page of the report they say:

"A few producers, however, may supply nearly all of a given product, but the monopolistic element involved may have little practical significance. The size of plant for efficient operation probably is so large relative to the demand for some products that only a few producers can profitably operate. In some cases side-line production by a few plants may supply adequately a given market."

There is also a highly significant footnote on page 6 describing some of the technical weaknesses of using the data as they have. The note follows in full:

"As repeatedly pointed out by the Department of Commerce, these percentages of concentration have certain obvious imperfections as indexes of concentration. *Experience has proved that in some industries census coverage of companies is not complete.* In most instances this is probably not serious, but in a few cases it may yield an index of apparent concentration greater than actual. *In numerous cases the census of classification is too narrow to provide significant figures on industrial concentration since the product classified separately may actually compete with a number of products in other classifications. It also fails to give an adequate picture of the competition that may exist in industries like the rubber tire industry where despite concentration of production competition at times has been intense.* Studies of an industry in its entirety such as those given in subsequent chapters are needed in order to supplement the comparison by products. Obviously in group figures on concentration such as those given in chapters I and II and Appendix I below the percentages of concentration given may tend to be too high. On the other hand, the measure is by companies and hence fails to show concentration of control by trade associations, interlocking management or 'gentlemen's agreements.' The measure like the underlying statistics is national. Yet for quite a large number of products the competitive market area is much smaller. Here the significant point would be the concentration in each area. The measure applied throws the product into one of three groups according to whether the percentage of production by value of the four largest companies amounted to 75+; 50 to 74; or 49 or less. Obviously this classification is arbitrary. The choice of different figures might have produced a different picture, at least in its details, though preliminary tests indicate that the major results are identical with those found in this study."

We have italicized three statements in the footnote quoted to show how the use of census materials of industrial concentration as an indicator of monopoly may result in serious error. On the other hand, subsequent statements indicate

³ Domestic production for 69 of the 317 classifications used in the special study was reported as under \$2,000,000 in 1937. For 148 of the 317 groups domestic production was less than \$5,000,000.

that monopolistic elements may exist even in the absence of industrial concentration.

Apparently the authors feel that the inclusion of classifications that are open to criticism is compensated for by the omission of other items. This interpretation is substantiated by their own statement appearing on page 10, near the end of the introductory chapter, which reads as follows: "The above estimates are, of course, subject to error for specific products, but the errors may be offsetting."

Even if this assumption were tenable in respect to the summary conclusions drawn from the large sample of 1,807 products, it cannot apply to the individual treatment accorded the special study of 317 items.

In the special study, which as previously noted accounts for the bulk of the Monograph, census data on industrial concentration is given for each of the 317 identified groups of products. For each of these products the authors state their conclusions as to the probable changes in imports and domestic prices which would follow a substantial reduction or removal of duty.

In this part of the study, the technical limitations of the census data are ignored. There is no indication as to whether the census data is incomplete; there is no indication as to whether the classification is too narrow; there is no indication as to the intensity of competition that may exist. While it may well have been impossible to determine the cases where the census data are incomplete, it is hard to account for the omission of any discussion of the other two points. We do not see how the conclusions can be defended unless the authors are sufficiently familiar with conditions in the industry to be able to state whether or not the products are competitive with products in another classification or whether or not there is considerable intensity of price competition within the industrial group itself. If the authors can answer these questions, it is hardly defensible for the material to be presented in the form in which it appears.⁴

It may be that in our efforts to make our criticisms brief and concise we have not elaborated sufficiently on the above statements. We hope that the exposition is sufficient to explain and justify our charge that, in addition to the criticisms advanced earlier in this paper, the material in Appendix II is doubly vulnerable. By the authors' own statements, the technique of using census figures of industrial concentration is likely to result in errors if other pertinent information is not appraised. Since these other pertinent factors are not considered, it stands to reason that there are many erroneous conclusions among the specific cases presented.

The form of presentation of material in Appendix II makes it almost inevitable that the conclusions stated will be used uncritically by many readers and that serious consequences may result through the failure of the lay reader to appreciate the narrow limits within which the analysis has been made and the inevitable errors in the conclusions which must exist in individual cases because of these narrow limits.

PART II. CRITICISM OF CERTAIN GENERAL ASPECTS OF THE STUDY AND THE IMPLICATIONS OF SOME OF THE GENERAL STATEMENTS AND CONCLUSIONS

It is difficult in commenting on a report such as Monograph #10 to refrain from entering into a general discussion of several aspects of the tariff problem. The implications of certain statements in the introductory chapter to the Monograph suggest that the authors' point of view is pretty much that of the so-called classical school of economics. Obviously, to embark on an extended critical appraisal of this school of thought would result in tremendously extending the scope of this paper and in carrying our comments beyond a specific criticism of the Monograph materials. We shall confine our comments to a brief statement of three or four points of particular importance to any practical consideration of the subject. These can be treated under two main divisions.

The first division emphasizes the narrowness of the study and its inadequacies if the conclusions were to be treated seriously in respect to many of the individual commodities identified in the Monograph. Foremost among the questions that arise in this connection is that of what would happen to the domestic industry in the event the authors' conjectures as to imports and prices are correct. Are we to assume that these industries can survive the impact of increased importations and lower prices? Are we to assume that the country would be better off without the industry, whatever the cost of liquidation may be? Nowhere in the Mono-

⁴ For example, in the schedule of information for tires and inner tubes on page 186 there is no indication that "competition at times has been intense" as was noted in their footnote to an earlier summary chapter which we have quoted above.

graph is there any consideration given to these questions. It is not necessary to hazard a guess as to how the authors may feel about this issue to realize that as a practical consideration the effect of increased importations and lower prices will vary from one industry to another. Undoubtedly there are products which could successfully compete against increased importations and meet lower prices without seriously impairing the ability of the domestic industry to pay prevailing wages and continue profitably in production, but it is equally true that included in the list are the products of many industries which could not survive the impact of increased foreign competition and maintain production levels, wage scales, etc., with any profits to themselves.

If we are supposed to accept the position that if an industry is unable to make this adjustment successfully it would then be desirable for the United States to abandon production in favor of some foreign source of supply, we are then confronted with some of the broader questions of policy, any consideration of which should be related to the realities of the world in which we are living rather than to any concepts as to what might be a desirable economic structure in an ideal world. It will suffice to raise only two questions to illustrate this point. The doctrine of comparative advantage is that it would be desirable for each area to produce that for which it is relatively best fitted and to permit free exchange of goods so produced. It is reasonable to suppose in the world constituted as it is today, that if we should give up production of certain products that they will actually be available to us in the future on more advantageous terms than we could supply them within our own borders? The world faces possibilities of political realignments and many changes of an economic character in its industrial and commercial organization. Irrespective of the policy that may be pursued by the United States in the post-war period, there will be a marked degree of political management of exports. To the extent that we follow a policy which permits of dependence on foreign sources of supply we assume great risks of becoming the victim of marketing procedures far more serious and costly in their effects on our national economy than any cost that we now bear through the failure to enforce effectively our domestic laws on domestic companies in any instances of unreasonable restraint of trade.

It is in order also to call attention to a developing realization that as a practical matter there is a pronounced tendency toward increased diversification of production in many areas throughout the world. The acute distress resulting from the present war on both belligerents and non-belligerents is daily increasing the belief of influential peoples that a diversified economy is far more desirable than a specialized one. The following significant statement of Under Secretary of State Welles in a recent address over a coast-to-coast network suffices to emphasize this point:

"While the exchange of raw materials for manufactured products used to be considered the perfect illustration of liberal trade doctrine based upon inherent advantage, most of us will agree that scientific developments and technological advantages have changed this situation. It is no longer true in the case of several of the other American republics that, even if all trade barriers were removed, it would be to their advantage to concentrate their activities solely on the production and export of a limited number of raw materials. On the contrary, the economy of the future, if that economy is to be the reflection of the progress of which the New World is theoretically capable, will represent in every quarter of this continent a much higher degree of diversified local production, both of raw materials and of manufactured articles. This development should not result in a decrease in the volume of inter-American trade; it would, however, represent a change in the character of that trade. And by vastly increasing the diversity of human opportunity in this part of the world, it will insure a richer, fuller life to millions of people in the Americas whose choice of occupation is now either extremely limited or even, in times of economic depression, non-existent."⁵

It has not been our intention in the above discussion to suggest that it was the responsibility of the authors to recognize and treat with all these matters. We do feel that the failure of the study to give any consideration to the probable effects on individual industries of lowering duties to increase importations and reduce prices is sufficient to render the conclusions in respect to individual products utterly valueless when the time comes to act upon whatever policy is adopted for the nation.

⁵ Department of State Bulletin, October 26, 1940, page 344.

PART III. CRITICISM OF THE TECHNIQUE EMPLOYED IN ESTIMATING CONSUMERS' COST RESULTING FROM IMPORT RESTRICTIONS

In his letter of transmittal the Economic Advisor states that Chapter VII (Consumers' Cost From Import Restrictions) "opens up a question far exceeding the scope of this Monograph, a question of the gravest importance well deserving full time and attention by the research staff of the Tariff Commission."

In their summary to this chapter, the authors state: "In view of the many intangible and immeasurable factors in market situations, it is exceedingly difficult to translate into dollar values the cost of import restrictions to consumers. Because of these obstacles to exact calculations, only two products were examined for consumer cost estimates. Even though these product, namely sugar and rayon, were relatively quite suitable for such calculations, it was found to be impossible to make highly exact estimates."⁶

Detailed comment on the two calculations is unnecessary. It will be a sufficient commentary on the inadequateness of the procedure to treat briefly one or two points under each survey.

Sugar.

Sugar is one of the two products for which the authors calculate the consumers' cost from import restrictions. It is a unique example, since both imports of foreign sugar and sales of domestic sugar (continental and offshore) have been subject to quantitative restriction since June, 1934. (At the time the quota was imposed, the duty on sugar was reduced. The duty on Cuban sugar was further reduced in September, 1934 under the Cuban Agreement.) Thus, in the case of sugar, the authors are concerned with two types of import restrictions, tariffs and quotas. They find that before the imposition of quotas the cost to the consumer from duty restrictions on sugar was measured largely by the amount of the Cuban preferential duty, but that under the quota system there is not necessarily such a relationship since the price, at least so far as the supply is concerned, is determined by the amount of sugar allowed on the market under the quota restrictions.

The authors' calculations show that over an eight-year period, the tariff and quota on sugar cost the American consumer on the average, 274 million dollars per year.⁷ But in Appendix II (on page 102), the authors state: "Removal of the quota and duties on sugar would increase substantially the imports of both raw and refined sugar, *would eliminate a large part of the domestic production of beet sugar and of the continental production of cane sugar*, and would appreciably lower the price, probably by an amount greater than the present duty on Cuban sugar." [Italics ours.]

Thus, whether the annual cost of the sugar tariff and quota is 274 million dollars or a much smaller amount, or a greater amount, it can be eliminated not by reducing the profits of sugar producers but by eliminating a large part of the domestic industry itself. In other words, if this cost is to be eliminated, existing sugar lands must be abandoned or converted to new crops with possible complications of existing agricultural problems; new employment must be found for present sugar workers; existing refineries must be scrapped and the United States must become entirely dependent on foreign sources or insular possessions for an essential part of its diet.

There is a further implication. Sugar legislation has favored Cuban growers among foreign producers. Not only does Cuban sugar pay a lower duty than other foreign sugars, but the quota provisions allot to Cuba a substantial part of our domestic sugar consumption. This has meant in recent years that Cuban sugar has enjoyed a better price in the United States market than in other markets. Thus part of the cost of the sugar tariff and quota has gone toward financing a very tangible good-neighbor policy. Elimination of the sugar duty and quota would of course mean that Cuban sugars had no preferential advantage over other foreign sugars. If the authors are correct in their surmise that the United States price would be lower, "probably by an amount greater than the present duty on Cuban

⁶ Monograph No. 10, page 89.

⁷ Since there are substantial customs revenues from the tariff on sugar, the authors find that the cost to the consumer as a taxpayer is somewhat less. On page 82, they state: "For the 8 years examined total consumers' cost amounted to \$2,189,062,203. The average annual cost was \$273,632,775. The average annual cost for the three pre-quota years was \$272,472,349; for the 5 years of the quota system, \$274,329,031. Since the net customs revenues were larger during the pre-quota period, the average annual cost to consumers as taxpayers was less in that period, namely, \$178,921,349 as compared with \$215,983,150 in the five quota years."

sugar," we would have to find other means of financing our good-neighbor policy if we wish to maintain it.⁸

Rayon.

The calculations of the consumers' costs of the duty on rayon demonstrate the insuperable difficulties of making any such calculation for most products. The authors' procedure is to calculate the price differential between a pound of imported rayon yarn and a pound of domestic rayon yarn. This differential is taken as the additional cost to the consumer on each pound of yarn because of the tariff. It is multiplied by total domestic production of rayon to discover the total annual cost to the consumer. Using this method, the authors venture the guess that the tariff on rayon yarn may have imposed an additional cost on the consumer in 1937 and 1938 of roughly \$110,000,000 to \$140,000,000.

Any such method assumes an identical quality of both imported product and domestic product. Or, as the authors themselves put it in the introduction to this CHAPTER, "Unless they are homogeneous or nearly so, the price differential loses its significance as a measure of consumers' cost." (Page 79.) Calculations were based on the comparatively small imports in 1937 and 1938 of which Japanese rayon constituted 23% of the total in 1937 and 39% in 1938. According to the authors, this Japanese rayon (which plays such an important part in the calculations) "is inferior in quality to the domestic. It is made from a bleached sulphite wood pulp of paper grade whereas the pulp used by the domestic rayon industry is said to be a special rayon grade having an alpha content averaging over 91 percent. High alpha ratios make for a whiter and stronger yarn. So far as is publicly known, the domestic industry uses no paper grades of wood pulp whatsoever." (Page 88.) Any calculation based on price differentials between products of such different qualities is meaningless, and it is not understandable why the authors, who avoided calculations for other products because of "almost insuperable difficulties" should have permitted such a calculation to be published even with reservations.⁹

Aside from difference in quality, there is another characteristic of rayon which makes any such calculation extremely difficult, and misleading. The rayon industry is a comparatively new industry both in the United States and in foreign countries. Quality of product has been greatly improved and there has been a great expansion in world consumption. With such frequent changes both in quality and volume of use, price differentials for any single year have less significance than differentials of price of the product of a long-established industry. This is apparent when the price pattern of domestic rayon is examined. The New York wholesale price of 150 denier first-quality rayon averaged \$2.00 per lb. in 1925, \$1.06 per lb. in 1930, \$0.57 per lb. in 1935, and \$0.53 per lb. in 1940.

General.

Because of the many technicalities involved, no satisfactory estimate of the cost to the consumer of our tariff has ever been made. When the Tariff Commission was called upon by congressional resolution to calculate "the effect of the tariff on consumer expenditures" for commodities produced by such corporations [those having net incomes in excess of \$1,000,000] "as compared with revenue derived by the United States Treasury therefrom," the Tariff Commission gave the following reasons, among others, for their failure to supply the requested information:

⁸ There is of course the possibility that the lower price received by Cuban producers might be offset by an increased volume of shipments of Cuban sugar to the United States. In this connection, the authors state on page 86 of the Monograph: "A considerable portion, moreover, of the supply now produced in protected United States areas would not be available without restrictions on imports. How much of this reduction in supply from protected areas could be furnished by low-cost production in nonprotected areas is not exactly known. Many of the cane-producing regions, such as Cuba, probably could meet the demand without incurring any substantial increase in costs."

⁹ Even if the imported and domestic product had been of the same quality, there would still be criticism of the technique of calculating consumer cost on the basis of the differential between estimated landed cost of imports and the domestic list price. Since Japanese rayon constituted a substantial part of the total rayon yarn imports the depreciation of the yen unduly depresses the apparent average invoice price of imported yarn. Furthermore, in order to calculate landed cost the authors were forced to estimate the cost of freight, insurance and importers' mark-up for the imported yarn (10% was added to the invoice price). Presumably no allowance is made in this estimate for delivery from the port of entry to the weaving mill. On the other hand, not only does the domestic list price include delivery to the weaving mill, but it is frequently higher than the actual sales price of domestic yarn. As shown by testimony in the Federal Trade Commission investigation of the rayon industry in 1937, the list prices quoted by the rayon producers represent a price ceiling with actual sale prices of rayon yarns taking place at this level or below. In several instances and at different times, as shown by this Trade Commission study, first-quality yarn was sold as much as 15 or 20 percent below existing list price. The problems created by such marketing situations are recognized by the authors in their statement on page 2 of the Monograph: "In many marketing situations, however, the difference between posted or nominal prices and actual prices including all the variable terms of a transaction is extremely difficult to ascertain."

"* * * The few articles covered by the resolution for which reliable domestic and foreign prices may be obtained present special difficulties both as to the comparability of the domestic and foreign products and as to the factors affecting prices.

"In the second place, even where accurate price comparisons are practicable, the factors affecting prices here and abroad are so numerous and so fluctuating that the degree of effectiveness of tariff duties, as far as it can be estimated at all, can be estimated only roughly and then only after long study. It would be impracticable in any reasonable time to make any worthwhile estimates as to the effectiveness of the tariff on articles covered by the resolution, even if the entire staff of the Commission should concentrate upon this one task."¹⁰

Furthermore, even if such costs could be stated, they would have little meaning unless interpreted in conjunction with possible alternate costs or compensating social, economic or strategic gains. This is true whether one is attempting an evaluation of the cost of a law regulating imports or the cost of laws regulating domestic working conditions and pay agricultural production or the conditions and technique of distribution.

Submitted by—

THE AMERICAN TARIFF LEAGUE.

19 WEST 44TH ST., NEW YORK, N. Y.

APPENDIX

Our own comments have been confined to a general but comprehensive criticism of the study. We have attempted to set forth as briefly as possible the reasons why a study conducted within such narrow limits is necessarily meaningless and in specific cases highly misleading.

The American Tariff League is not in a position to make authoritative item-by-item criticisms of the individual product studies. We are therefore presenting, with the permission of the writers, material excerpted from among the communications received in the office of the American Tariff League. They are typical of the criticisms of individuals in a position to speak for their own industries. In several instances they offer specific illustrations of the points made in the body of the paper.

BOOK PAPER (CONTAINING GROUND WOOD)

(Page 152)

The only correct data under this heading in the T. N. E. C. Monograph are:

1. Description and use.
3. Recent Tariff History.
4. Average Ad Valorem Equivalent.

The true data for 1937, compared with the published figures are given below:

	Total No. Companies	Total Plants	Percent of Domestic Production by 4 Largest Companies	Value of Product
Monograph text.....	11	14	96	\$15,000,000
True Facts.....	24	30	72.7	\$30,000,000

The above data are only for the mills included in the reports to the Groundwood Paper Manufacturers' Association, in which in 1937 twenty-four companies produced 445,432 tons, and the four largest producers 324,044.

Any implication in the Monograph that there is monopolistic tendency is wrong for two reasons: First, the figures themselves are erroneous, and, second, even more important, a failure to realize the true competitive field.

¹⁰ U. S. Tariff Commission "Sales and Income of Certain Manufacturing Companies and Rates of Duty and Other Information With Respect to Their Products. 1936."

The first error is shown by the corrected figures given above. The competitive field is not confined to groundwood papers, but all Book Paper, or at least all uncoated Book Paper. The Groundwood Book Papers are in constant competition with the free sheet (all chemical pulp) papers, and vice versa. Also, outside of the Groundwood field, there is a large production of Book Papers containing groundwood, as well as the free sheet papers, none of which are included in the 445,432 tons of product given above. When this entire field of competition is included, the facts are that there are 82 companies in the field, and the four largest producers of strictly Groundwood Content Book Papers produced only 20.5 per cent of the total output. The Monograph states that the concentration is explained by side line production by large mills principally engaged in Book Paper manufacture. The facts are quite the contrary. Of the four largest producers of Groundwood Content Book Paper, only one makes free sheet Book Paper in any significant amount. In the case of that one, its production of Groundwood Paper is so large that it can in no wise be considered a side-line production but rather is its principal output.

The figures given are those reported to the Groundwood Paper Manufacturers Association and the Book Paper Manufacturers Association. These are not 100 per cent of the domestic production, but the largest producers are included. If non-reporting mills were included, the proportion of the total output by the four largest producers would be still lower than the percentage shown.

LEATHERBOARD

(Page 150)

According to the T. N. E. C. Monograph, "Leatherboard is a solid board made from scrap leather and may or may not contain manila, jute, or paper clippings. It is used for shoe counters and boxes and in the manufacture of slippers."

The data on leatherboard in the T. N. E. C. Monograph must refer to a product entirely different from leather fibre, or to leather fibre plus other materials. In either event the impression given of an industry largely controlled by a limited number of companies, and therefore monopolistic in tendency is seriously in error.

The term leatherboard originated in the 1880's to describe anything which acted as a substitute for leather, irrespective of any leather content. A great many materials which are now known by other names were described as leatherboard when first put upon the market. The result has been great confusion since many of these materials are no longer known as leatherboard in their trade but still come under that term in the Census, in railroad freight tariffs, in ocean freight tariffs or in customs schedules. Leather fibre is now used to identify board containing leather in order to distinguish it from other materials. It should be noted that leather fibre does actually contain a large proportion of animal fibre, something which is not true of any other boards.

Having the above in mind it is entirely possible that the T. N. E. C. report referred to something entirely different from leather fibre or that it referred to leather fibre and one or more other materials. It could not have been intended to refer to leather fibre only. Thus, leather fibre is not used for shoe counters nor for shoe boxes (nor for box toes if that is what they mean by the word boxes). If used in the manufacture of slippers it is used in negligible quantity.

The figures on domestic production also indicate that the term leatherboard as used in the Monograph does not refer to the true leather fibre.

* * * * *

CIGARETTE PAPER

(Page 151)

An assumption that the domestic production of cigarette paper is so concentrated in a small number of mills that a reduction of the present duty rate would tend to lower prices and end a tendency toward American monopoly is entirely disproved by the facts.

1. Monopolistic tendency, if any (prior to the European war) was on the part of French mills, largely controlled or financed by four principal American consumers, and these French mills provided 75 per cent of the American requirements.

2. A reduction of the duty rate from 60 to 45 per cent effective June 15, 1936 resulted in an increase of only 5.7 per cent in imports, and this percentage would normally be due to the better level of general business in 1937 as compared with 1935.

3. The only price reduction was due, after this duty reduction, to the depreciation of the French franc, and to a lower price abroad.

4. The reduction of duty, while not changing the competitive status, saved the cigarette paper consumers 15 per cent duty charges on their imports of \$3,874,925 of this paper, or \$600,000 which otherwise would have been paid into the revenues of the United States Government.

5. "Concentration" is not the proper word for the condition existing in the American cigarette paper industry. The proper word is "restriction" for the operations of the monopolistic French mills made it impossible for domestic producers to market their product except to independent cigarette manufacturers, even with the duty rate of 60 per cent formerly in effect.

An entirely false implication is contained in the final paragraph of the Monograph's discussion of this subject. The Monograph states that a new domestic mill has increased domestic capacity to an estimated 75 per cent of consumption. This new mill was erected solely because of the impending war in Europe. Until this mill was established, the domestic industry had not for many years past been permitted to supply more than 25 per cent of the domestic requirements, the balance all coming from French mills. When war in Europe was seen to be impending, the American consumers, fearing inability to continue purchases abroad financed the building of this mill for their own requirements, and not primarily for the general market. The blockade of France has practically eliminated all French shipments of cigarette paper. Inasmuch as France can produce this paper at a far lower cost than the domestic mills, there is no assurance that domestic production would be continued by the newly built mills if the French mills are again permitted to ship their product to this market.

"CONTAINER BOARD (OTHER THAN LINERS, CHIP OR STRAW)"

(Page 149)

According to the T. N. E. C. report, "Container paperboard is a homogeneous or solid board of various thicknesses with a machine finish. It is used for corrugating or for making light containers."

Production of container board is reported by the Census of Manufactures according to the following six classes:

Census Class

Container Boards:

Liners

	<i>Production, 1937</i>
Kraft.....	\$45, 678, 709
Jute.....	43, 207, 483
Other.....	6, 739, 921
Chip (plain and test).....	18, 457, 834
Straw (for corrugated-container use).....	16, 895, 781
Other container boards.....	3, 423, 586

The last of these census classes "other container boards" is the item under discussion and the only container board listed in Appendix II of the T. N. E. C. report. Included in this miscellaneous class are chestnut board, which is used as a corrugating medium and some items of manila fiber which are not used in container manufacture.

Chestnut board is one of 7 grades of board used as a corrugating medium (the fluted member of a corrugated board) and represents the utilization of a waste material which otherwise would be destroyed.

During 1937 the following tonnage of corrugating material was made from the material listed:

Kind	Com- panies	Plants	Tons	% of Total
Straw.....	19	28	404, 496	54.8
Kraft.....	10	12	148, 361	20.1
Chestnut.....	5	5	90, 318	12.3
Waste Paper Stock.....	11	18	60, 593	8.2
Pinewood.....	1	1	26, 280	3.6
Gumwood.....	1	1	6, 926	.9
Sulphite (Est.).....	3	3	500	.1
Total.....	46	68	735, 087	100.0

In the Census of Manufactures, straw board is separately reported, Kraft corrugating material is included under "liners—Kraft" and corrugating material made from waste paper stock is included under "chip."

The corrugating material made from any one of the seven different raw stocks listed is adapted to the fabricating of corrugating board except that one grade may possess certain characteristics more advantageous for the use to which the board is to be put than another. All grades compete in the open market. One fabricator may use one of several grades in his work.

There were no imports of this material during 1937.

Furthermore, chestnut board is made also for use as a liner and in 1937 there was produced 25,114 tons of chestnut liners which was sold in competition with other liner boards.

Since there are but 5 companies making chestnut board, it is apparent that the census bureau has included 7 other companies using manila fiber that are entirely foreign to container-board manufacture and therefore the 91% shown for the 4 largest companies is meaningless.

WOOL TEXTILE PRODUCTS

Memorandum in re Monograph No. 10 of the T. N. E. C. on Industrial Concentration and Tariffs, in respect to that part of the Monograph pertaining to Wool Textile Products, pages 134, 135, 136.

Woolen and Worsted Fabrics (page 134).

The tabulation appearing at the bottom of page 134 under the heading of "Woolen and Worsted Fabrics" is grossly incorrect. It purports to cover the operations of from three to sixteen plants engaged in the production of the following enumerated articles:

A. Woolen and worsted fabrics for—

- (a) Men's Suits
- (b) Men's Overcoats
- (c) Men's Topcoats
- (d) Women's Coats
- (e) Women's Suits
- (f) Women's Dresses

B. Interlinings without horsehair.

If we understand the table correctly, it also indicated that "3 to 16" plants studies include the four mills in the industry producing the largest volume of each of these separately classified products. In none of the classifications given, with the possible exception of "interlinings without horsehair", do any four concerns in the industry account for 77% of the total production, let alone 100% apparently assigned as the figure for one or more classifications.

The total value of the products enumerated is given as \$40,574,089, whereas the figure given in the 1937 Census of Manufactures is approximately ten times this amount. Since the percentages showing concentration were undoubtedly derived from these incorrect figures on the value of the products studied, these percentages too must be incorrect. If figures covering the entire industry were used, it is doubtful if they would show a degree of concentration of much if any more than half of that indicated in this table, with the possible exception of interlinings without horsehair. This last is a relatively unimportant product and figures which would enable one to check this item are not at present available.

* * * * * * *

An illustration showing that these percentage figures, even if correct, may be misleading because the many variations in the allocations of machinery to specific products according to the demand, is found in the production of covert cloth. A few years ago substantially all of the covert cloth was produced by a single mill. Since that time, however, this fabric has gained public favor with the result that a number of mills are now competing for this business. This is substantially the case with every product which the industry makes. Practically every mill in the country is a potential producer of any wool fabric, and as soon as the market widens or the price margin becomes attractive, other mills enter those fields which previously have been confined to a relatively small number.

Another illustration is given by the manufacture of fabrics for the Army. When the Army consisted of a force of 275,000 men, the production of army cloths was confined to a handful of mills. However, as a result of the recently enlarged demand, there were 77 bidders on the invitations opened by the Quartermaster in December.

A tabulation of those making certain products at any one time, even if correct, is a much less accurate measure of the degree of concentration in the industry than a census of looms operated by the leading producers.

The following table gives a classification of looms subject to the Wool Textile Code as of January 26, 1935. The picture has not changed greatly since then.

Classification of firms according to loom equipment subject to the Wool Textile Code, January 26, 1935

Loom Equipment	Number of Firms		Loomsinthousands ¹		% of Total Looms	
	Class	Cumulative	Class	Cumulative	Class	Cumulative
1,000 or more.....	7	7	17.4	17.4	34%	34%
500 to 999.....	9	16	6.1	23.5	12	46
400 to 499.....	5	21	2.2	25.7	4	50
300 to 399.....	4	25	1.4	27.1	3	53
200 to 299.....	9	34	2.1	29.2	4	57
100 to 199.....	65	99	8.4	37.6	16	73
50 to 99.....	123	222	8.5	46.1	16	89
25 to 49.....	111	333	4.4	50.5	9	98
11 to 24.....	58	391	1.1	51.6	2	100
10 or less.....	31	422	.2	51.8	100
Total.....	422	422	51.8	51.8	100%	100%

(493 mills)

¹ Looms of 50" or less reed space counted at $\frac{1}{2}$ loom.

While this table does indicate a concentration of productive capacity, it is much less than the 77 to 100% figure suggested in the Monograph. Regardless of what the correct ratios may be, we would question their use as an "indicator of monopolistic elements" in the manufacture of the products of the wool textile industry. One need go no further than a cursory examination of the profit and loss record of the industry to be convinced that monopolistic elements are almost completely lacking regardless of the fact that there is a degree of ownership concentration.

* * * * *

The explanation that "specialization and side-line production apparently account for the concentration" in these products is a meaningless dismissal of a complicated if not baffling question. The statement that "imports consist mainly of fine woolsens and worsteds" is a repetition of an erroneous impression which is widespread but at variance with the facts. During 1939 imports of woven fabrics wholly or in chief value of wool and hair and weighing over four ounces per square yard under the lowest value bracket (not over \$1.25 per pound) amounted to almost half the total imports, while those under the highest value bracket (over \$2 per pound) amounted to only slightly over 15%. The following table shows the importations during the last five years for which figures are available, separated into the different value brackets.

Imports into United States for consumption of woven fabrics weighing over four ounces per square yard (excluding pile fabrics and woven felts) wholly or in chief value of wool or hair

[In thousands of square yards]

Year	Value per Pound (Foreign)				Year	Value per Pound (Foreign)			
	Not Over \$1.25	Over \$1.25 but not over \$2	Over \$2	Total		Not Over \$1.25	Over \$1.25 but not over \$2	Over \$2	Total
1935..	2,089 41%	1,443 28%	1,532 31%	5,064	1938..	2,253 38%	2,295 39%	1,363 23%	5,911
1936..	2,977 42%	1,880 26%	2,291 32%	7,148	1939..	5,490 48%	4,063 36%	1,793 16%	11,346
1937..	3,515 37%	3,003 32%	2,853 31%	9,371					

This table clearly indicates what a large percentage of the goods imported are of medium and low grades which compete actively with domestic products.

The statement that "A substantial reduction in the duty, including the duty on raw wool, would increase imports greatly and would lower prices appreciably," is a mere statement of opinion without substantiation of any kind. The effect of a reduction in duty would depend very largely upon how the duty was reduced. If the duty on raw wool were reduced and there were a corresponding reduction in the compensatory rate on fabrics, there is no question that prices would be lowered. The cost to the domestic manufacturer of his raw material would be reduced if the tariff on raw wool were lowered, and he would be able to produce fabrics which could be sold at a lesser cost than is the case at present. Such a reduction, however, would have no appreciable effect upon the quantity of imports. A reduction in the tariff on raw wool and a corresponding reduction in the cost to the domestic manufacturer of his raw material would leave the domestic manufacturer in the same competitive position as respects the foreign manufacturer as he is at present, and other things being equal, such a change in duty would have no effect upon imports.

A reduction in the ad valorem duty would unquestionably increase imports in the first instance. It is to be doubted, however, if there would be any permanent increase in imports as a result of such a reduction. A reduction in the ad valorem rate would mean that foreign fabrics could be landed here at a lower figure, but the domestic mills would not stand idly by and lose the American market without a struggle. The domestic manufacturer would have to find some way of reducing his own costs to meet this intensified competition. While profits are not sufficiently large to enable domestic manufacturers to meet such competition out of their present profits, they would endeavor to meet it by reducing their costs or by paying less for their raw material. It is doubtful whether labor costs could be substantially lowered. Probably in the end the reduction would be brought about through paying a lesser price to our domestic wool growers. The domestic wool growers have no market other than the wool textile industry of this country, and if the wool textile industry were to lose a certain portion of its business to imported fabrics, they would be unable to use domestic wool at as high a price as would be the case otherwise. When a reduction had been accomplished, either at the expense of the domestic wool growers or textile labor or both, importations would again be decreased so that we would be back where we started, except that we would be operating on a lower price level. While such a lower price level might be desirable from some standpoints, it would not seem that there is any reason for suggesting that either textile labor or the domestic wool growers should make any such contribution to a reduction in prices. It seems to us that the statement that a reduction in duty would increase imports greatly and would lower prices appreciably is very unintelligent, looks only at the near term result, and rather assumes that you can eat your cake and have it too.

2. *Billiard Cloths* (page 135).

Our comments on the statements covering the production of billiard cloths are similar to those which we have made on the subject of concentration in the woolen and worsted fabric field referred to above. While apparently only three firms reported making billiard cloth in 1937, there are at least six other firms who make billiard cloth on occasion. The material used as undercollar cloth is very similar to billiard cloth, although of a somewhat inferior quality. Any widening of the market for billiard cloths immediately brings into the market those firms who already manufacture undercollar cloth on a large scale. There are a number of concerns making undercollar cloth, and practically every woolen mill could make this cloth if occasion arose, and most of the woolen mills could produce a satisfactory billiard cloth if there were a demand for it or if the price margin became large enough to be attractive. The remarks made above apropos of the result of a reduction in duty on woolen and worsted fabrics are likewise applicable in some degree to billiard cloths.

3. *Auto Cloths with Pile* (page 136).

Although there is no reason to question the figures on auto cloths with pile, we do take the same exception to the remarks in the Monograph under "Industrial Concentration and Tariff Policy" as we made in respect to the statements on woolen and worsted fabrics covered above.

On page 16 of the Monograph it is stated that "removal or substantial reduction of duties would probably assist in offsetting monopolistic elements in domestic industries producing, among other items, auto cloths with pile." Nowhere have we been able to find how it was determined that monopolistic elements were pre-

sent in the domestic industry, unless it were the finding that the four largest companies produce an estimated 90% of the total production. By the authors' own admissions concentration of production in a limited number of firms alone is no evidence. Also we are unable to find any basis whatever for the statement that a reduction of duty would increase imports and assist in offsetting "monopolistic elements," whatever they are. A fact which the writers of the Monograph appear to have overlooked completely is that these auto cloths with pile must constantly compete with auto cloths without pile, which are produced in about equal volume.

Because of the time element involved, it is impracticable for automobile manufacturers to use imported fabrics to any large extent and accordingly a reduction in the ad valorem duty would probably have little or no effect either upon prices or upon volume of imports. A reduction in the duty on raw wool would have an effect upon the price of auto cloths because the domestic manufacturer would then start with a lower raw material cost, but it would have no effect upon the amount of material imported. It is perhaps interesting to recall that some years ago one of the largest automobile manufacturers in this country equipped a factory and produced his own automobile upholstery cloths. He soon abandoned it, finding that he could secure the automobile fabrics from integrated mills, making other products as well as auto cloths, considerably cheaper than he could make them himself.

REJOINDER BY CLIFFORD L. JAMES TO STATEMENT OF THE AMERICAN TARIFF LEAGUE, RE T. N. E. C. MONOGRAPH NO. 10, INDUSTRIAL CONCENTRATION AND TARIFFS

This monograph is an introductory exploration of the relationship between industrial concentration and tariffs in order to determine the probable effectiveness of tariff-reductions as an aid in the preservation of competition. It is incomplete and tentative, that is, only one part of a large sample of industrial products is analyzed in detail and the analysis applies to conditions approximating those of 1937. The study indicates clearly the difficulties involved in this type of investigation, the need for a coordinated policy in the use of tariffs and in the efforts to preserve competition, and consequently, the desirability of making periodically a complete and exhaustive investigation of the problem.

The foregoing explanation, which is also clearly set forth in the monograph (pages 7 to 11) answers many of the objections stated by the American Tariff League. With reference to the large sample of 1897 products, for example, the League states that "no detailed schedule of these products is given." The statement is only partially correct. Products in the low and intermediate concentration group of the large sample were examined with regard to their tariff status and the probable restrictive effects of tariffs, but this information for each product was not published separately because of its length. These two groups, moreover, were not examined with regard to possible monopolistic elements. About 90 percent, however, of the products in the high concentration group (p. 6) was studied carefully and separate schedules of information are published in Appendix II. If the American Tariff League implies that a detailed study should be made of the other two groups, as well as of a much larger sample, there is no point of disagreement.

The objections to the analysis of the high concentration group of products, which constitutes the major portion of the monograph, indicate a careless reading of the monograph. They seem to arise from two sources, namely, a failure to note fully the evidence presented and a failure to remember that the monograph lays no claim to finality with regard to the products analyzed. The League states, for example, that "the whole study hinges on the findings set forth under the sixth item" of the schedules of information. It is correct to say that this item is pivotal, but it summarizes in part the rest of the schedule and in part contains any additional information of significance for the problem of probable effects of tariffs and of the probable existence of monopolistic elements in domestic industries. Items one and six indicate the difference between the domestic and imported products when the difference seemed to be important. Items two and six indicate the probable existence of monopolistic elements in the domestic industries. The ratio of companies to plants in item two is important, as well as the index of concentration (p. 1). Items three, four, five, and six indicate the probable effects of tariffs. If the duty on a given product was raised substantially since 1913 (item three), that change is partial evidence of restriction of imports. The height of duties in terms of an ad valorem rate and especially the comparison of domestic production, imports, and exports (items four and five) furnish important evidence for an estimate of the effects of tariffs.

The estimates of the restrictive effects of tariffs and the competitive situations are referred to by the League as the "unsupported opinions of the authors." The estimates are clearly presented as tentative judgments derived from the available evidence which did not include extensive field-investigations of companies, plants, and products. Such investigations, as the League implies, would be indispensable for a final decision with regard to policy at any given time. The available evidence, however, which was used and most of which appears in the monograph cannot be dismissed as "unsupported opinions." The staff of the T. N. E. C. had the cooperation of other governmental agencies in the preparation of the monograph. Many of the products included in the study (p. 11) had already been carefully examined in the development of the trade agreements. In addition to the basic information contained in the schedules, more detailed points of importance for several products are given in Chapter II; namely, for corn-starch, rayon yarn, sodium bicarbonate, coal-tar products, rubber thread, agricultural implements, electrical equipment, and slide fasteners. Approximately twelve products, grouped as three industries, are analyzed historically on an industry basis in Chapters III, IV, and V. When the available evidence seemed to be insufficient to warrant reasonable estimates for certain products, no analysis was attempted and the lack of data was explained (pages 6, 17, 18, 19 and 21). Although these points are carefully set forth, the American Tariff League asserts that "the technical limitations of the census data are ignored."

A few comments on the objections to the analysis of certain products will suffice to show that they are largely irrelevant and insignificant. The League cites, for example, the failure to repeat a reference in a footnote with regard to competition (rubber tires and tubes, p. 6) in the schedule of information for that product (p. 186). The schedule of information, however, shows that the product is on an export-basis and that the duty is not restrictive. Furthermore, the product is *not* classified in the group characterized by restrictive tariffs and monopolistic elements (p. 20) which is the significant point of the analysis.

The analysis of book paper (containing ground wood), (p. 152), leather board (p. 150), and container board (p. 149) is objected to because of alleged, faulty census data and because of "any implication" of a "monopolistic tendency." The census data may be faulty, or the apparent discrepancy between census data and the data submitted by the League may be due to differences in the classification of products. Only a special investigation can satisfactorily settle that issue. Any objection, however, to the analysis of the competitive situation for these products seems to be irrelevant since the objectors should have observed that these products are *not* classified in the group characterized by monopolistic elements (p. 17). On the other hand, cigarette paper is classified in that group (p. 17) and a substantial reduction of the duty is recorded as a probable offset to "minor monopolistic elements" in the domestic industry (pages 151 and 17).

In this instance the criticisms submitted by the League miss one important consideration, namely, that under conditions approximating those of 1937 a very low duty on cigarette paper would improve the alternatives of the smaller independent cigarette companies in buying their paper. Although the duty was 60 per cent ad valorem, from 1922 to 1936, the large cigarette companies were not dependent on the few domestic producers of paper because of their financial and contractual relations with foreign paper mills and because of the higher price at which their cigarettes were sold. The smaller independent cigarette companies were probably excluded from foreign sources of supply by the lack of quantity-discounts, the duty, and the higher ratio of paper-cost to the selling price of their cigarettes.

Approximately the same comments apply to the criticisms submitted by the League with regard to a few textile products. Although the census data and the census classification of products may be questioned, the analysis of these products, as judged by the criticisms, was carefully made. For example, certain woolen and worsted fabrics, billiard cloths, and auto cloths (with pile) are included, on the basis of census data, in the high-concentration group. The schedules of information for the first two products (pages 134-36) indicate that the high concentration of output in a few firms had little, if any, monopolistic significance, that is, other firms were equipped to produce these products, but did not do so in 1937. These two products are *not* included in the group characterized by monopolistic elements (p. 16), and consequently, the criticism of implying monopolistic conditions is not relevant for these two products. The third product, auto cloths (with pile), is included in the group for which "removal or substantial reduction of duties would probably assist in offsetting monopolistic elements in domestic industries." It is included because of multiple-plant ownership, the very high percentage of

output supplied by the four largest companies, the use of special looms and spinning machines, contractual selling practices, and the height of the duty (pages 16 and 136).

Other criticisms presented by the American Tariff League, especially those applicable to Chapter VII, Consumers' Cost From Import Restrictions, could be answered largely by quotations from the monograph. The reader is invited to do his own checking and to formulate his own judgments. Many economic processes are not amenable to exact analysis, and consequently, the evaluation of evidence is frequently a difficult task. The hope is expressed here that the statement of the American Tariff League and this rejoinder will contribute to a careful reading and interpretation of the tentative findings presented in Monograph No. 10.

HISTORY OF THE TAXATION OF LIFE INSURANCE COMPANIES
UNDER THE FEDERAL INCOME, CAPITAL STOCK, AND EXCESS
PROFITS TAXES, 1909-1940

(Submitted by the Division of Tax Research, Department of the Treasury, as supplemental material to Monograph No. 28, "The Study of Legal Reserve Life Insurance Companies")

(Written by Willard C. Mills, Associate Economic Analyst, Division of Tax Research, Department of the Treasury. Valuable criticisms were supplied by Walter W. Mahon, in the office of the Chief Counsel, Bureau of Internal Revenue)

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I. TAXATION OF LIFE INSURANCE COMPANIES UNDER THE INCOME TAX

A. GENERAL STATEMENT

Under the Corporation Excise Tax Act of 1909 the broad outlines of corporate income taxation were set forth, a tax being imposed upon "every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares, and every insurance company * * *." The general basis of the tax for insurance companies as well as for other corporations was " * * * entire net income * * * from all sources."² Fraternal beneficiary societies were exempt from the tax.³

Under the Revenue Acts of 1913, 1916, 1917, and 1918, insurance companies continued to be taxed on their entire net income from all sources.⁴ The general plan of taxing the incomes of life insurance companies set forth under the 1909 act continued to be applied, net premium income being included in gross income, and claims paid under policy contracts being allowed as a deduction.

The treatment of life insurance companies under the income tax was radically changed under the Revenue Act of 1921. Under that and subsequent acts life insurance companies have been taxed, not on their net income from whatever source derived, but on the basis of their investment income from interest, dividends, and rents. Under this revised method of taxing life insurance companies only deductions properly related to investment income are allowed. Thus, since enactment of the Revenue Act of 1921, premium receipts are not included in gross income and claims paid under policy contracts are not allowable as a deduction.

Under the 1921 and subsequent acts, life insurance companies have been defined as insurance companies "engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfilment of such contracts comprise more than 50 per centum of its total reserve funds."⁵ This definition has proven unsatisfactory in that business organizations not in reality life insurance companies could under a literal interpretation of the statute qualify as such by writing one life insurance contract. Mortuary companies have been able to secure classification as life insurance companies by doing some of their business on an insurance basis.⁶

B. GROSS INCOME AND DEDUCTIONS, 1909-1920

1. Gross income.

a. *General statement.*—During the period 1909-1920 the gross income of life insurance companies, like the gross income of other domestic taxpayers, consisted of their total revenue from the operation of the business and of their income from from all other sources within the taxable year.⁷ With respect to premium income, however, only net premium income (gross premium income less returned premiums on policies cancelled and premiums on policies not taken) was to be included in life insurance company gross income.⁸

¹ Tariff Act of August 5, 1909, section 38.

² *Ibid.*

³ *Ibid.*

⁴ Tariff Act of 1913, section II B [1]; Revenue Act of 1916, section 10; Revenue Act of 1917, section 1296 (1); Revenue Act of 1918, sections 213 and 233 (a) (1).

⁵ Revenue Acts of 1921, 1924, and 1926, section 242; Revenue Acts of 1928, 1932, 1934, 1936, and 1938, section 201 (a); I. R. C., section 210 (a).

⁶ *Lucire Burial Association Co.*, 36 BTA 621 (1937); affirmed 102 Fed. (2d) 89 (1939); *Memo. BTA-United Burial and Ins. Co., and Brown Service Funeral Co., Inc.*, Prentice-Hall (1939) 6.654.

⁷ Regulations 31, Article 2; Regulations 33, Article 97; Regulations 33 (revised), Article 239; Regulation 45, Article 548. This general statement must be qualified, of course, by the exemption provided, as in the case of other corporations, for interest received on obligations of the United States or of the States and their political subdivisions. (Regulations 33 (revised), Article 239). Further, as in the case of other corporations, dividends received from corporations subject to the tax were exempt from the tax under the 1909 and 1918 acts.

⁸ Regulations 33, Article 101; Regulations 33 (revised), Article 239; Regulations 45, Article 548.

To determine a controversy that arose under the Corporation Excise Tax Act of 1909 with regard to the tax status of that portion of net premium income returned to policyholders in the form of dividends, the act of 1913 and subsequent acts provided that life insurance companies could exclude from gross income that portion of any actual premium received, paid back, or credited to a policyholder, or treated as an abatement of his premium.⁹

b. *Dividends of mutual and participating life insurance companies.*—The major problem in the determination of life insurance company gross income during the period 1909–1920 was the determination of whether or not that portion of the net premium income returned to policyholders as dividends was to be excluded from gross income. The insurance companies contended that such dividends represented merely the return of an overcharge and that therefore that part of the premium returned to a policyholder as a dividend should not be taxable as income to the insurance company.

(1) The nature of the dividends declared by mutual and participating life insurance companies: The nature of the dividends declared by mutual and participating life insurance companies was considered by the Commissioner of Internal Revenue in 1911.¹⁰ The Commissioner, by way of dicta, stated the opinion that such dividends represented something more than the mere return of an overcharge and that they were in fact distributions of surplus derived not only from overcharges but from all sources.¹¹

In 1913, Congressman Cordell Hull, then a member of the Ways and Means Committee, made the following statement with respect to the problem raised by the dividends declared by mutual and participating life insurance companies:

“* * * the accumulations of these companies which arise from savings in expenses, savings in mortality, savings from lapses and surrenders, and profits from excess interest earnings, when considered in the aggregate, are clearly of such a character as to merit the payment of the proposed tax * * * If the companies would keep the question of premium assessments and overcharges strictly within a category to themselves and not mix and confuse them with the profits derived from the sources enumerated, it would be possible to deal with the one without affecting the other * * *.”¹²

The difficulty, then, in determining a proper method of treating these dividends under the income tax arose because of their dual nature and because the 1909 act did not recognize this duality, no distinction in tax treatment being made under that act between dividends representing returns of overcharges and dividends paid out of income realized from sources other than overcharges. Insofar as the dividends consisted of a return of an overcharge it was apparently Mr. Hull's opinion that the premium income so returned ought not to be taxed as income to the insurance companies. On the other hand, it was apparently the consensus that, to the extent that these dividends represented distributions of income realized from sources other than overcharges, they ought not to be either excluded or deducted from the taxable income of the insurance companies.

(2) The controversy with respect to dividends applied to the payment of renewal premiums, to shorten the premium-paying or endowment period, or to purchase paid-up additions or annuities: The insurance companies contended that under the 1909 act dividends paid to policyholders but by the direction of the policyholders applied to the payment of renewal premiums, to shorten the endowment or premium-paying period, or to purchase paid-up additions or annuities did not constitute income received by the company in the year so applied, and were therefore not to be included in determining the company's income for the year of such application. The Commissioner decided that dividends which are at the direction of the policyholder transferred back to the company to be so applied constituted new taxable income received by the company, in the year of such application, even though the physical possession of these dividends had been received by the company in a prior year and had remained in the company during the year of such application.¹³ This decision of the Commissioner was not sustained by the courts.¹⁴

⁹ Tariff Act of 1913, section II G (b); Revenue Act of 1916, section 12 (a) Second; Revenue Act of 1918, section 233 (a) (1).

¹⁰ Treasury Decision 1743, *Treasury Decisions under Internal Revenue Laws of the United States*, v. 14 (1911), p. 134.

¹¹ Id. at 136, 137.

¹² 50 Cong. Rec. 514 (1913).

¹³ Treasury Decision 1743, *Treasury Decisions under Internal Revenue Laws of the United States*, Volume IV (1911), pp. 137–139.

¹⁴ *Mutual Benefit Life Ins. Co. v. Herold*, 198 Fed. 199 (D. C., N. J. 1912), affirmed 201 Fed. 918; certiorari denied, 231 U. S. 765; *Conn. General Life Ins. Co. v. Eaton*, 218 Fed. 188 (D. C. Conn. 1914); *Conn. Mutual Life Ins. Co. v. Eaton*, 218 Fed. 206 (D. C. Conn. 1914); and *Fink v. Northwestern Mutual Life Ins. Co.*, 267 Fed. 908 (1920).

The Commissioner's decision was based upon the legal fact that when a dividend is declared, the title to the ratable share is vested in the policyholder, the company thereafter being a mere custodian of the dividend, authorized to act only as an agent of the policyholder in determining its disposition. Reasoning on the basis of this shift of legal title to the policyholder it follows that when a policyholder directs the company to apply the dividend to lessen future premium payments, or to shorten the premium payment period, or to purchase additional insurance, or to accelerate the maturity of an endowment policy, this amounts to a receipt of income by the insurance company even though the actual possession of the dividend has remained with the company.

The courts chose to disregard the fact that at the time a dividend was declared legal title to the ratable shares therein vested in the policyholders and sustained the contention of the insurance companies by reasoning (1) that the amount of the dividend had been taxed as premium income at the time it was received as an overcharge in the form of a premium, (2) that the possession of the dividends applied to pay renewal premiums (or in the other ways above discussed) remained in the insurance company, (3) that the application of such dividends to pay renewal premiums (or in the other ways above discussed) amounted simply to a bookkeeping transfer from one account to another, and, therefore, that the application of dividends to pay renewal premiums (or in the other ways above discussed) was not a receipt of income by the insurance company in the year of such application taxable under the 1909 act.¹⁵

(3) The exclusion provided in the 1913 and later acts: In an attempt to solve the problem that had arisen under the 1909 act with respect to dividends issued by mutual and participating life insurance companies, an exclusion from gross income was provided in the 1913 act of that " * * * portion of any actual premium received * * * paid back or credited to [a] policyholder, or treated as an abatement of [his] premium."¹⁶ The wording employed in his exclusion provision was not given specific administrative definition until the issuance of Regulations 45 in 1919, six years later.¹⁷

The administrative practice adopted with respect to the exclusion provision was to require dividends paid within a given year to be included so long as they were not in excess of the actual premium due from the individual policyholder.¹⁸ For example, if a policyholder's annual premium payment was \$200 and in a given year he received a dividend of \$300 and directed that it be applied toward payment of the renewal premium for that year, the policyholder paying no cash, then only \$200 of the dividend could be excluded.

In *Penn Mutual Life Insurance Co. v. Lederer*,¹⁹ Mr. Justice Brandeis, speaking for the court in its affirmance of the administrative interpretation of the exclusion provision, wrote as follows:

"The principle applied is that of basing the taxation on receipts of net premiums, instead of on gross premiums. The amount equal to the aggregate of certain dividends is excluded, although they are dividends, because by reason of their application the net premium receipts * * * are to that extent less" (p. 530).

"Dividends may be made, and by many of the companies have been made largely, by way of abating or reducing the amount of the renewal premium. Where the dividend is so made the actual premium receipt of the year is obviously only the reduced amount. But, as a matter of bookkeeping, the premium is entered at the full rate and the abatement (that is, the amount by which it was reduced) is entered as a credit * * *. Where the premium was left unchanged, but was paid in part by a credit or cash derived from the dividend * * * Congress doubtless used the words 'shall not include' as applied * * * to these credits * * * " (pp. 527-528).

¹⁵ See cases cited in note 14.

¹⁶ Tariff Act of Oct. 3, 1913, section II G (b).

¹⁷ Regulations 45, Article 549. This article interprets the language of section 233 (a) (1) of the Revenue Act of 1918, which language is essentially the same as that quoted from the 1913 act. "Paid back" was defined to mean "paid in cash"; "credited to" was defined as "held to the credit of, including dividends applied to renewal premiums, to purchase additional paid-up insurance or annuities, or to shorten the endowment or premium-paying period, but not to include dividends provisionally ascertained and apportioned upon deferred dividend policies"; and "treated as an abatement of premium" was defined to mean "of the premium for the taxable year." In *Penn Mutual Life Insurance Company v. Lederer*, 252 U. S. 523 (1920), the court interpreted the language of the exclusion provision of 1913 act in a manner consistent with the definitions supplied by Article 549 of Regulations 45 with respect to the exclusion provision contained in the 1918 act.

¹⁸ Regulations 33 (revised), Article 241; Bulletin "H", *Income Tax Rulings Peculiar to Life Insurance Companies*, Article 6.

¹⁹ 252 U. S. 523 (1920).

In theory, under the exclusion provision, it was not the *dividend* which was excluded from life insurance company gross income, but rather that portion of the *premium* which was paid by application of the dividend.

c. *Other problems relating to gross income.*—Since a net addition to reserve funds within the taxable year was deductible, a net decrease in the reserve funds required by law was held to be taxable income to the extent that the amount of the decrease was released for the general use of the company.²⁰ In contrast to the treatment of applied dividends as dictated by court decision under the 1909 act and by the exclusion provision contained in later acts, surrender values applied in any manner and consideration for supplementary contracts were included in gross income even though applied surrender values and consideration for supplementary contracts were no more cash income received by the insurance company within the year of application of the surrender values (or within the year in which the supplementary contract was entered into) than were dividends applied to purchase additional insurance, to pay renewal premiums, or to shorten the premium-paying period.²¹

2. Deductions.

a. *General statement.*—During the period 1909–1920, life insurance companies were entitled to the same deductions from gross income as other corporations,²² and, in addition, were allowed to deduct (1) the net addition made within the taxable year to reserve funds required by law,²³ and (2) sums other than dividends paid within the taxable year on policy and annuity contracts.²⁴

Two principal problems arose with regard to the deductions allowed life insurance companies during the period 1909–1920. The first principal problem, closely related to the controversy, already noted, as to whether or not dividends declared by mutual and participating life insurance companies were to be excluded from gross income,²⁵ was the controversy as to whether such dividends were to be allowed as a deduction. The second principal problem, and a much more difficult one, was the determination of what “reserves” constituted the basis for the deduction allowed for “net additions to reserves required by law.”

b. *The first principal problem—the meaning of the term “dividends” as used in the deduction allowed for sums other than dividends paid on policy and annuity contracts.*—The Corporation Excise Tax Act of 1909 specifically provided that only “sums other than dividends” could be deducted with respect to the deduction allowed for payments on policy and annuity contracts.²⁶

The mutual and participating companies contended that the so-called dividends declared by such companies were not dividends in the commercial sense, but were simply refunds to the policyholder of a portion of the overcharge collected from the policyholder, which overcharge was held by the insurance companies in trust, being returned annually or at stated periods to the policyholder, and, therefore, that such “dividends” were not what Congress meant by the term “dividends” in providing that only “sums other than dividends” were to be deductible.²⁷

The Treasury Department refused to grant the contention of the mutual and participating companies, holding that the dividends excepted from the deduction were intended by Congress to be the so-called dividends annually disbursed by the companies.²⁸

²⁰ Law Opinion 1032, C. B. 2, p. 216 (1920); *Maryland Casualty Co. v. U. S.*, 251 U. S. 342 (1920). For a discussion of the deduction allowed for net additions to reserve funds, see p. 18107.

²¹ Regulations 33, Article 101; Regulations 33 (revised), Article 241; Bulletin “H”, *Income Tax Rulings Peculiar to Life Insurance Companies*, Article 2.

²² Special provisions were made with regard to the deductions allowed life insurance companies for depreciation and losses. In lieu of a deduction for depreciation of furniture and fixtures, life insurance companies were permitted to deduct the actual cost of repairs, renewals, and replacements, provided that in the case of an original investment the cost thereof should be charged to capital account. (Regulations 33 (revised), Article 240; and *Mutual Benefit Life Insurance Co. v. Herold*, 198 Fed. 199 (D. C. N. J. 1912)). Life insurance companies were allowed to include in the deduction for losses actually sustained (and not compensated for by insurance) losses by defalcation, and premium notes voided by lapse (provided such notes had been included in gross income for tax purposes). (Regulations 33 (revised), Article 240.)

²³ For definition of the term “reserve funds required by law” see pp. 18112–4.

²⁴ Regulations 45, Article 568. See also, Tariff Act of Aug. 5, 1909, section 38; Tariff Act of October 3, 1913, section II G (b); Revenue Act of 1916, section 12 (a) (2) (c); and Revenue Act of 1918, section 234 (a) (10). Under the deduction allowed for sums other than dividends paid on policy and annuity contracts, life insurance companies could deduct all death, disability, or other policy claims (other than dividends) paid within the year, matured endowments, annuities, payments on installment policies, surrender values, and all claims actually paid under the term of policy contracts. (Regulations 33 (revised), Article 240.)

²⁵ See pp. 18107–8.

²⁶ Tariff Act of August 5, 1909, section 38.

²⁷ Treasury Decision 1743, *Treasury Decisions under Internal Revenue Laws of the U. S.*, v. 14 (1911).

²⁸ *Ibid.*

c. *The second principal problem—the deduction allowed for net additions to reserves required by law*.—During the period 1909–1920, life insurance companies were allowed to deduct the net addition, if any, made within the year to reserve funds required by law.²⁹ A company was permitted to deduct the highest net addition to reserves required by any State in which the company did business.³⁰

The chief difficulty with respect to this deduction was the determination of what Congress meant by the term "reserve". In general, it may be said that in order to classify as eligible for the deduction, a reserve had to be (1) of such character as to be commonly recognized as a reserve in insurance parlance, and (2) required by law.³¹ This general restriction was not sufficiently definite to eliminate controversy as to the meaning of the term "reserve". Questions arose as to whether or not Congress intended to include within the meaning of the statute reserves held for supplementary contracts not involving life contingencies, reserves held to meet liabilities on cancelled policies, reserves for unpaid losses, reserves to meet liabilities on matured coupons, reserves maintained for anticipated excessive mortality losses, reserves for possible losses in reserves invested, and the extra reserve for total and permanent disability benefits and for accidental death benefits. Since the history of the controversy over the term "reserve" is confined neither to the period 1909–1920 nor to the period 1921–1940, and because of its importance, it is separately set forth under section I-D at page 18112–4.

C. GROSS INCOME AND DEDUCTIONS, 1921–1940

1. Gross income.

a. *General statement.*—In the case of a life insurance company, gross income under the Revenue Act of 1921 and subsequent acts means the gross amount of income received during the taxable year from interest, dividends, and rents.³² Tax-exempt interest, excluded from the gross income of other types of corporations, must be included in gross income and may then be claimed as a deduction. Gains realized from the sale of assets are not to be included in gross income.³³

b. *Rental value of space occupied, 1921–1931.*—Under the Revenue Acts of 1921–1928, the rental value of space occupied by a company had to be included in gross income if the company wished to claim a deduction for taxes and other expenses paid during the year on real estate owned and occupied in whole or in part by the company. Such rental value was to be not less than a sum which in addition to any rents received from other tenants would provide a net income (after deducting taxes, depreciation, and all other expenses) at the rate of 4 percent per annum of the book value at the end of the taxable year of the real estate so owned or occupied.³⁴ The Board held this requirement that the rental value of the space occupied by the company be included in gross income to be a direct tax on property levied without apportionment and therefore unconstitutional.³⁵ Although the Supreme Court later reversed the decision of the Board as to the constitutionality of the requirement that the rental value of the space occupied was to be included in gross income,³⁶ the Congress, in the Revenue Act of 1932, had eliminated the requirement.³⁷

c. *Purchase by insurance company as mortgagee-vendor at foreclosure sale.*—Since capital gains are in general excluded from gross income of life insurance companies the Board held that a life insurance company which forecloses a mort-

²⁹ See statutory references cited in note 24.

³⁰ Treasury Decision 1727, *Treasury Decisions under Internal Revenue Laws of the U. S.*, v. 14 (1911).

³¹ An exception was made to the first requirement in the case of assessment companies by virtue of which they were permitted to deduct sums actually deposited with territorial officers, pursuant to law, as additions to guaranty or reserve funds. (See statutory references cited in note 24.) The second requirement was relaxed in the case of insurance companies issuing combined life, health and accident policies on the weekly payment plan, continuing for life and not subject to cancellation, to the extent that a reserve was necessary to provide against the companies' obligations on the maturity of such policies. (Revenue Act of 1918, section 234 (a) (11).) For an insurance company to successfully claim a deduction under the provision relating to combined life, health, and accident policies introduced under the 1918 act, the company had to show that the amounts claimed were in fact required for the protection of the policyholders. (*Mammoth Life and Accident Insurance Co.*, 6 BTA 869 (1927).) A further relaxation of this second requirement was made necessary by a decision that the phrase "required by law" included the rules and regulations of State Insurance Departments when promulgated in the exercise of appropriate power conferred by statute. (*Maryland Casualty Co. v. U. S.*, 251 U. S. 342 (1920).)

³² Revenue Acts of 1921–1926, section 244 (a); Revenue Acts of 1928–1938, section 202 (a); Internal Revenue Code (1939), section 202 (a).

³³ Regulations 62, 65, and 69, Article 661; Regulations 74 and 77, Article 951; Regulations 86, 94, and 1101, Article 201 (b)–1; Regulations 103, section 19–201 (b)–1.

³⁴ Revenue Acts of 1921–1926, section 245 (b); Revenue Act of 1928, section 203 (b).

³⁵ *Independent Life Insurance Co.*, 17 BTA 757 (1929).

³⁶ *Hefvering v. Independent Life Ins. Co.*, 292 U. S. 371 (1934).

³⁷ Senate Report 665, 72d Cong., 1st sess., p. 36; Revenue Act of 1932, section 203 (b).

gage upon which both principal and interest are due and unpaid, and buys in the mortgaged property at the foreclosure sale for the face value of the mortgage receives no taxable income from such a transaction, even though the actual value of the property is greater than the face value of the mortgage.³⁸ Where the bid price at foreclosure sale includes the accrued but unpaid interest, such interest is to be included in gross income.³⁹ But where the property is voluntarily transferred in consideration of the cancellation of the mortgage indebtedness including accrued interest, such interest is not includible in gross income unless the value of the property equals or exceeds the mortgage loan, plus accrued interest, plus cost of the transfer.⁴⁰

2. Deductions.

a. *General statement.*—Under the Revenue Act of 1921 and subsequent acts the following deductions have been allowed life insurance companies:

- (1) tax-exempt interest,
- (2) a reserve fund earning allowance,
- (3) investment expenses,
- (4) two percent of reserves held for deferred dividend payments,
- (5) taxes, expenses, depreciation, and obsolescence with respect to real estate owned by the company,
- (6) interest paid on indebtedness,
- (7) dividends received from domestic corporations,
- (8) net losses, and
- (9) specific credits.

The deductions for dividends received, net losses (the net loss carry-over), and specific credits have been the same as the corresponding deductions allowed other types of corporations under the general provisions of the revenue acts. Tax-exempt interest excluded from the gross income of other types of corporations is deductible from gross income in the case of life insurance companies.

An analysis of the deductions peculiarly applicable to life insurance companies and of the deduction for interest paid as allowed in the case of life insurance companies follows.

b. *Reserve fund earning allowance.*—In line with the taxation of life insurance companies only on their investment income from interest, dividends, and rents, a reserve fund earning allowance has been allowed as a deduction during the period 1921–1940 in lieu of the deduction formerly allowed during the period 1909–1920 for “net additions to reserves required by law.” The theory underlying this deduction is (1) that insurance companies, in setting the premium rates, take account of the probable income that they will derive from investment of the premiums thereby setting lower premium rates than they would otherwise do if such income were not taken into account; (2) that if a tax were to be placed on that part of income required to be added to the reserves set aside to meet contingent liabilities on insurance contracts, the reserves built up by the companies would be insufficient to meet their obligations on outstanding policies when such obligations came due; and, (3) that if such income were taxed, insurance companies would have to charge higher premium rates on contracts entered into following the adoption of a tax on such income.

The Revenue Acts of 1921–1928 provided that deduction could be taken of—

“* * * an amount equal to the excess, if any, over the deduction for tax-exempt interest, of 4 percent of the mean of the reserve funds required by law held at the beginning and the end of the taxable year, plus (in the case of life insurance companies issuing policies covering life, health and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation) 4 percent of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only.”⁴¹

The attempt to decrease the 4 percent reserve fund earning allowance deduction by the amount of the tax-exempt interest received was declared to be constitutionally invalid.⁴² In conformity with this decision of the Supreme Court,

³⁸ *John Hancock Mutual Life Ins. Co.*, 10 BTA 736 (1928).

³⁹ *Midland Mutual Life Ins. Co. v. Helvering*, 300 U. S. 216 (1937); rehearing denied, 300 U. S. 688. See also *Missouri State Life Ins. Co. v. Commissioner*, 78 Fed. (2d) 728 (1935).

⁴⁰ *Manhattan Mutual Life Ins. Co.*, 37 BTA 1041.

⁴¹ Revenue Acts of 1921–1926, section 245 (a) (2); Revenue Act of 1928, section 203 (a) (2).

⁴² *National Life Ins. Co. v. U. S.*, 277 U. S. 508 (1928).

the Revenue Acts of 1921-1928 were retroactively amended to allow a full deduction of 4 percent of the mean of the reserve fund without any abatement on account of tax-exempt interest.⁴³

Under the Revenue Act of 1932 and subsequent acts the reserve fund earning allowance deduction has been revised to provide that deduction may be taken of—

"* * * an amount equal to 4 percent of the mean of the reserve funds required by law held at the beginning and the end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of 3½ percent shall be substituted for 4 percent. Life insurance companies issuing policies covering life, health and accident insurance combined in one policy * * * shall be allowed, in addition to the above, a deduction of 3½ percent of the mean of such reserve funds (not required by law) held at the beginning and the end of the taxable year * * *." ⁴⁴

In general it may be said that under present law the reserve contemplated is a sum of money which, with accretions from interest, is reserved as a fund with which to mature or liquidate future unaccrued and contingent claims.⁴⁵ Only reserves which are peculiar to life insurance companies and which are dependent upon interest earnings for their maintenance are eligible.⁴⁶ The history of the controversy as to the meaning of the term "reserve" as employed in the statute is set forth in section I-D at pages 18112-4.

The reserve fund upon which the percentage deduction is to be computed is the fund required by statute or by the rules and regulations of the State Insurance Department promulgated in the exercise of a power conferred by statute.⁴⁷ Although a company is entitled to make use of the highest aggregate reserve called for by any State in which it transacts business, it is entitled to a deduction only on the basis of the reserves it actually holds, as shown by its annual statement.⁴⁸

In States requiring that the custody of reserve funds be in the hands of a State official, an actual addition to a reserve fund must be made before the addition will be considered part of the reserve for Federal tax purposes.⁴⁹ Since most States do not require that the custody of reserve funds be in the hands of a State official, the above statement does not represent the general rule. In most States the Insurance Departments examine the companies' balance sheets and make a physical inspection of the assets to determine if they are sufficient in amount to meet the statutory requirements. The Bureau then accepts the bookkeeping entries as checked by the State Insurance Departments as representing the amount of the reserve upon which the deduction is based.

Where domestic companies write foreign business, the companies' obligations being to pay in a foreign currency and the assets held in reserve to meet the contingent liabilities on such business being payable to the companies in such foreign currency, a peculiar problem of fluctuation of the value of the reserves in terms of the dollar arises, since the State Insurance Departments require that the value of the assets held in the legal reserves be shown at their dollar value on the books of the companies. For example, if a domestic company under the circumstances outlined above holds in reserve at the beginning of a tax year English assets valued at £100,000 or \$400,000, and at the end of the tax year the value of the assets remains £100,000 but in terms of the dollar has shrunk to \$350,000 simply because of a depreciation of the pound in terms of the dollar, then the question arises, may the company, with respect to this part of its business, claim a reserve fund earning allowance on the basis of a \$400,000 reserve or must the company reduce its reserve to the mean of \$400,000 and \$350,000, that is, \$375,000? Under the circumstances outlined above it has been held that fluctuations in the value of the

⁴³ Treasury Decision 4231, C. B. VII-2, p. 299 (1928).

⁴⁴ Revenue Acts of 1932-1938, section 203 (a) (2); I. R. C., section 203 (a) (2).

⁴⁵ Regulations 86, 94, and 101, Article 203 (a) (2)-1; Regulations 103, section 19.203 (a) (2)-1.

⁴⁶ Regulations 62, 65, and 69, Article 681; Regulations 74 and 77, Article 971; Regulations 86, 94, and 101, Article 203 (a) (2)-1; Regulations 103, section 19.203 (a) (2)-1.

⁴⁷ Ibid. In the case of assessment insurance companies, however, the "reserve funds required by law" include sums actually deposited by any insurance company or association with State or territorial officers pursuant to law as guarantee or reserve funds, and any funds maintained under the character or articles of incorporation exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use. (Revenue Acts of 1921-1926, section 244 (b); Revenue Acts of 1928-1938, section 202 (b)).

⁴⁸ Regulations 62, 65, and 69, Article 681; Regulations 86, 94, and 101, Article 203 (a) (2)-1; Regulations, 103, section 19.203 (a) (2)-1.

⁴⁹ *Pilot Life Insurance Co. v. Commissioner*, 30 Fed. (2d) 1019 (1929); *Western Surety Co. v. Commissioner*, 38 Fed. (2d) 1022 (1930).

reserve due solely to changes in the value of foreign currency in terms of the dollar are not to be taken into account for Federal tax purposes.⁵⁰

The statutory language, calling for a deduction of 4 percent of "the mean of the reserve funds * * * held at the beginning and end of the taxable year * * *" has raised an administrative problem with respect to part-year returns. In instances where a company goes out of business in the midst of a tax year, the amount upon which the deduction is based is deemed by the Bureau, in its interpretation of the language of the statute, to be the difference between the reserves at the beginning of the year and zero, divided by two. This rule of thumb is followed regardless of the number of months constituting the fraction of the year during which the company was in business, and has been sustained by the courts.⁵¹

c. *Investment expenses.*—The Revenue Act of 1921 and subsequent acts have provided a deduction for—

"* * * investment expenses paid during the taxable year: *Provided*, that if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed $\frac{1}{4}$ of 1 percent of the book value of the mean of the invested assets held at the beginning and the end of the taxable year."⁵²

As a general rule, amounts spent in connection with the realization of investment income are deductible as investment expenses.⁵³ By administrative practice the deduction is limited to amounts spent collecting or supervising the collection of income from interest, dividends, and rents. Thus, cost of investing and reinvesting are not investment expenses within the meaning of the statute. For example, commissions paid to real estate agents for services in selling real estate previously acquired by default are not deductible.⁵⁴ It has been held, perhaps erroneously, that depreciation on a building erected on leased ground is an allowable investment expense deduction.⁵⁵

It was early held that a salary paid solely for the handling of investments is a deductible investment expense.⁵⁶ The validity of this early decision is at present in doubt. The life insurance companies have contended that where an officer spends part of his time handling investment and there has been an ascertainment in advance of the payment of his salary as to the proportion to be borne by the investment department, that the proportion so determined is an investment expense not subject to the limitation with respect to the assignment of general expenses to investment expenses.⁵⁷ In the *Volunteer State Life* and the *Sun Life* cases the Board of Tax Appeals and the Court of Claims sustained the companies, contention. But in the *New World Life* case the Court of Claims reconsidered and overruled its earlier decision in this respect. The Supreme Court has refused to review the Court of Claims decision in this respect.⁵⁸ It would seem, therefore, that at the present time that part of officers' salaries paid for handling investments is not deductible as an investment expense free from the limitation with respect to the assignment of general expenses to the investment expense account.

As for the limitation in cases where a portion of general expenses is included in the investment expenses, the maximum allowance of $\frac{1}{4}$ of 1 percent of the book value of the invested assets is not granted unless it is shown to the satisfaction of the Commissioner that such allowance is justified.⁵⁹ "Invested assets" are those which are owned and used, and to the extent used, have the purpose of producing taxable income.⁶⁰

⁵⁰ *New York Life Ins. Co.*, 24 BTA 1217 (1931); sustained in *Commissioner v. New York Life Ins. Co.*, 65 Fed. (2d) 347 (1933); certiorari denied, 290 U. S. 682.

⁵¹ *The Western and Southern Life Insurance Co. v. Howe*, #4512 at Law, U. S. District Court, Southern District of Ohio, Western Division, (August 14, 1939), *Giral Southern Life Ins. Co. v. Commissioner*, 89 Fed. (2d) 54 (1937), certiorari denied 302 U. S. 698.

⁵² Revenue Acts of 1921-1926, section 245 (a) 5; Revenue Acts of 1928, 1934, section 203 (a) 5; Revenue Act of 1936 and 1938, section 203 (a) 1.

⁵³ General Counsel's Memorandum 4336, C. B. XI-1, p. 329 (1932).

⁵⁴ *Union Central Life Ins. Co. v. Commissioner*, 89 Fed. (2d) 969 (1937).

⁵⁵ General Counsel's Memorandum 4336, C. B. XI-1, p. 329 (1932).

⁵⁶ Office Decision 1580, C. B. II-1, p. 161 (1923).

⁵⁷ *Volunteer State Life Ins. Co.* 27 BTA 1149 (1933); *Sun Life Ins. Co. v. U. S.*, 12 F. Supp. 45 (Ct. Cl. 1935); *New World Life Ins. Co. v. U. S.*, 26 F. Supp. 444 (Ct. Cl. 1939).

⁵⁸ The Supreme Court granted the taxpayer's petition for a writ of certiorari on May 20, 1940, but limited the review to an issue other than that here under discussion.

⁵⁹ Regulations 62, 65, and 69, Article 683; Regulations 74 and 77, Article 973; Regulations 86, Article 203 (a) (5)-1; Regulations 94 and 101, Article 203 (a) (4)-1; and Regulations 103, section 19.203 (a) (4)-1.

⁶⁰ Regulations 86, Article 203 (a) (5)-1.

d. *Two percent of reserves held for deferred dividend payments.*—The 1921 and subsequent acts provide that life insurance companies may deduct—

“* * * an amount equal to 2 percent of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than 5 years from the date of the policy contract.”⁶¹

The reserve for deferred dividends upon which this deduction is based includes amounts set apart, apportioned, provisionally ascertained, calculated, declared, or held awaiting apportionment upon deferred dividend policies.⁶² Deferred dividend policies differ from ordinary life policies calling for an annual dividend only in that the deferred dividend policy contains a special provision allowing the policyholder to elect not to take his dividends annually, but to pool such dividends with the dividends of other persons in his class, under an agreement that after a certain period of accumulation the survivors will take all. The deduction is based on the theory that the company is hardly more than a stakeholder of accumulations to the pooled fund. The company is more than a stakeholder, however, to the extent that (1) it has complete control over the investment of the fund during the accumulation period and (2) it takes the fund in the event that there are no survivors at the termination of the accumulation period.

The deferred dividend policy introduces a gambling element into the insurance contract. The policyholder, in effect, wagers (1) that he will be able to make the required annual contributions to the fund throughout the accumulation period, and (2) that he will be a survivor. The Federal tax law countenances this practice in that it permits an earning allowance deduction on reserves held for deferred dividend payments.

Survivorship investment fund policies differ from deferred dividend policies in that, in the survivorship investment fund policy, the policyholder agrees to pay annually in addition to the premium due on ordinary insurance, an additional amount to be pooled and invested by the company for an agreed period, the surviving policyholders to take all. The Supreme Court has held that the companies may not claim a deduction for investment income credited to the survivorship investment fund under either the reserve fund earning allowance or the 2 percent earning allowance on reserves held for deferred dividend payments.⁶³

e. *Taxes, expenses, depreciation, and obsolescence with respect to real estate.*—(1) Taxes and other expenses: The Revenue Act of 1921 and subsequent acts provide that—

“Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property”

may be deducted by life insurance companies.⁶⁴

Under the acts of 1921–1928, deduction for taxes and other expenses paid on real estate owned and occupied in whole or in part by the company could be taken only if there was included in gross income the rental value of the space occupied.⁶⁵ As hereinbefore noted, the Board of Tax Appeals held this limitation upon the deduction for taxes and other expenses paid on real estate owned or occupied to be unconstitutional. A different type of limitation has been placed upon the deduction by the Revenue Act of 1932 and subsequent acts, as follows:

“The deduction * * * shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.”⁶⁶

State capital stock taxes are not deductible,⁶⁷ nor are State taxes on premiums.⁶⁸

⁶¹ Revenue Acts of 1921–1926, section 245 (a) 4. Revenue Acts of 1928–1934, section 203 (a) 4; Revenue Acts of 1936–1938, section 203 (a) (3).

⁶² Regulations 62, 65, and 69, Article 682; Regulations 74–77, Article 972.

⁶³ *Helvering v. Illinois Life Ins. Co.*, 299 U. S. 88 (1936).

⁶⁴ Revenue Acts of 1921, 1924 and 1926, section 245 (a) (6); Revenue Acts of 1928, 1932, and 1934, section 203 (a) (6); Revenue Acts of 1936 and 1938, section 203 (a) (5); I. R. C., section 203 (a) (5).

⁶⁵ Revenue Acts of 1921, 1924, and 1926, section 245 (b); Revenue Act of 1928, section 203 (b). For a discussion of the requirement that the rental value of space occupied be included in gross income, see section I-C–1–b, page 15.

⁶⁶ Revenue Acts of 1932, 1934, 1936, and 1938, section 203 (b); I. R. C., section 203 (b).

⁶⁷ *Standard Life Ins. Co.*, 13 BTA 13 (1928).

⁶⁸ Office Decision 2416, C. B. VII–1, p. 131 (1928).

The deduction for taxes and other expenses, being limited to such costs with respect to real estate owned by the company, has raised only narrow factual issues.⁶⁹

(2) Depreciation and obsolescence: The deduction for depreciation and for obsolescence is in substance the same as that allowed other taxpayers except that under the Revenue Acts of 1921-1928 it was made conditional upon the inclusion in gross income of the rental value of space occupied.⁷⁰ Under the Revenue Act of 1932 and subsequent acts the depreciation and obsolescence deduction is subject to the proportional limitation applicable to the deduction for taxes and expenses paid on real estate.⁷¹

A life insurance company is not entitled to deduct depreciation on all furniture and fixtures but only on such as are used in connection with its investment business.⁷²

f. *Interest paid on indebtedness.*—The Revenue Act of 1921 and subsequent acts have provided a deduction for interest paid identical with that allowed other corporations, as follows:

"All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title."⁷³

As a general rule interest on dividends held on deposit and surrendered during the taxable year is deductible.⁷⁴ However, interest paid on deferred dividends distributed during the taxable year to holders of this type of insurance is not deductible, inasmuch as there is no legal obligation to pay such interest.⁷⁵ Such payments constitute additional dividends rather than interest on indebtedness.

Interest paid or accrued to holders of coupons attached to guaranteed premium reduction policies is deductible when such coupons have been left with the company to accumulate at interest, or when interest paid on such coupons has been applied to current or future premiums, or when such interest has actually been paid out in cash.⁷⁶ Similarly, where a life insurance company pays interest on the proceeds of life insurance policies left with it pursuant to the provisions of supplementary contracts not involving life contingencies, or similar contracts, the interest so paid is deductible, except that deduction is not allowed under the interest paid deduction to the extent that the company has deducted such interest under the reserve fund earning allowance deduction.⁷⁷

The discount allowed by life insurance companies on premiums paid in advance does not represent interest paid on indebtedness within the meaning of the statute.⁷⁸

D. THE DEFINITION OF THE TERM "RESERVE"

During the period 1909-1920 a deduction was allowed for "net additions to reserves required by law". During the period 1921-1940, a reserve fund earning

⁶⁹ Taxes and expenses on a building owned by a life insurance company and erected on leased ground are not deductible as taxes and expenses, but are deductible as investment expenses. (General Counsel's Memorandum 4336, C. B. XI-1, p. 329 (1932). The unamortized portion of broker's commissions paid in 1927 for securing a ten-year lease of real estate owned by the company, the lease having been terminated by court order in 1928, was not deductible for 1928 either as expenses paid nor as an allowance for exhaustion or obsolescence, nor as a loss. (*Helvering v. Manhattan Life Ins. Co.*, 71 Fed. (2d) 292 (1934)).

⁷⁰ Revenue Acts of 1921, 1924, and 1926, section 245 (b); Revenue Act of 1928, section 203 (b). For a discussion of the requirement that the rental value of space occupied be included in gross income, see section I-C-1-b, page 18107.

⁷¹ Revenue Acts of 1932, 1934, 1936, and 1938, section 203 (b); I. R. C., section 203 (b). The limitation applicable to the deduction for taxes and expenses paid on real estate under the 1932 and subsequent acts is set forth on page 18111.

⁷² *Rockford Life Ins. Co. v. Commissioner*, 292 U. S. 382 (1934); *Helvering v. Manhattan Life Ins. Co.*, 71 Fed. (2d) 292 (1934).

⁷³ Revenue Acts of 1921, 1924, and 1926, section 245 (a) 8; Revenue Acts of 1928, 1932, 1934, section 203 (a) (8); Revenue Acts of 1936 and 1938, section 203 (a) (7). I. R. C., section 203 (a) (7).

⁷⁴ Regulations 62, 65, and 69, Article 685; Regulations 74 and 77, Article 975; Regulations 86, Article 203 (a) (8)-1; Regulations 94 and 101, Article 203 (7)-1; Regulations 103, section 19.203 (7)-1.

⁷⁵ *Lafayette Life Ins. Co.*, 26 BTA 946 (1932); *Missouri State Life Ins. Co. v. Helvering*, 78 Fed. (2d) 773 (1934). But see *Commissioner v. Lafayette Life Ins. Co.*, 67 Fed. (2d) 209 (1933).

⁷⁶ Office Decision 2717, C. B. XII-2, p. 94 (1933). Under the early decisions holding that reserves held to meet liabilities on matured coupons were "reserves required by law" within the meaning of the statute, interest paid on account of coupons was held not to be deductible as interest paid on indebtedness. (*Reserve Loan Life Ins. Co.*, 18 BTA 359 (1929)). The overruling of these early decisions in *Helvering v. Inter-Mountain Life Ins. Co.*, 294 U. S. 686 (1935), sustained the Bureau's contention that such reserves were not reserves required by law within the meaning of the statute. The Inter-Mountain decision also sustained the Bureau's theory that matured coupons represented accrued liabilities and that interest paid thereon was deductible as interest paid on indebtedness.

⁷⁷ Regulations 94 and 101, Article 203 (a) (7)-1; Regulations 103, section 19.203 (a) (7)-1. For a discussion of the reserve fund earning allowance deduction, see section I-C-2-b, pp. 18108-10.

⁷⁸ General Counsel's Memorandum 20200, C. B. 1938-1, p. 206.

allowance has been allowed as a deduction. The definition of the term "reserve" has constituted perhaps the most important single problem with respect to the taxation of life insurance companies.

An early decision under the 1909 act held that the reserve held to meet liabilities on supplementary contracts not involving life contingencies was a "life insurance reserve fund" within the meaning of the statute.⁷⁹ The Bureau adopted this conclusion and inserted it in the regulations.⁸⁰

The term "reserve funds" as it appeared in the 1909 and 1913 acts was defined by the Supreme Court of the United States as follows:

"The term 'reserve' or 'reserves' has a special meaning in the law of insurance. While its scope varies under different laws, in general it means a sum of money variously computed or estimated, which with accretions from interest, is set aside, 'reserve', as a fund with which to mature or liquidate, either by payment or reinsurance with other companies, future unaccrued and contingent claims, and claims accrued, but contingent and indefinite as to amount and time of payment."⁸¹ [Italics supplied.]

The language italicized seemed to sustain the ruling, adopted in view of the *Mutual Benefit Life* case, that the reserve for supplementary contracts not involving life contingencies was a life insurance reserve fund the net additions to which could be deducted. As a result of this decision broad administrative application was given to this proposition.⁸²

First doubts as to the validity of the proposition were raised by the Circuit Court for the Seventh Circuit when it held that the reserves for supplementary contracts and for liabilities on cancelled policies were not reserve funds within the requirements of the Wisconsin statute.⁸³ The Bureau regarded this decision as having been dictated by the Wisconsin statute, and did not give it general applicability. However, in the next case to reach the Supreme Court which had to do with the question of what reserves were "life insurance reserves", the court held that a reserve for unpaid losses was not a reserve fund within the meaning of the Federal income tax law.⁸⁴ In so doing the court in effect changed the definition of "reserve" to exclude claims accrued, but contingent and indefinite as to amount and time of payments. This decision was regarded by the Bureau as limiting the term "reserve fund" as used in the taxing statutes to reserves held to meet contingent liabilities on outstanding policies only. No longer was the term "reserve fund" deemed to include reserves held to pay matured liabilities or for a contingent or unincurred liability not directly growing out of an insurance risk. Following up its decision in the *Boston Insurance Company* case, the court held that (1) reserves held to meet liabilities on unreported policy losses and (2) the estimated value of future premiums waived in case of total or permanent disability were not reserves within the meaning of the 1913 act.⁸⁵

Following its decision in the *Boston Insurance Company* case, in which it removed reserves held for matured or accrued liabilities from within the meaning of the statutory term "reserve", the Supreme Court held that reserves held against liabilities on matured coupons were not reserves within the meaning of the tax law.⁸⁶ The importance of this decision lies in the fact that one of the reasons

⁷⁹ *Mutual Benefit Life Ins. Co. v. Herold*, 198 Fed. 199 (1912).

⁸⁰ Regulations 33, Article 147 (d); Regulations 33 (revised) Article 240; Regulations 45, Article 569.

⁸¹ *Maryland Casualty Co. v. U. S.*, 251 U. S. 342 (1920).

⁸² See Office Decision 427, C. B. 2, p. 216 (1920) and Law Opinion 1032, C. B. 2, p. 216 (1920).

⁸³ *Fink v. Northwestern Mutual Life Ins. Co.*, 267 Fed. 968 (1920).

⁸⁴ *U. S. v. Boston Ins. Co.*, 269 U. S. 197 (1925). In addition to its direct effect upon the *Maryland Casualty* case and the regulations issued following the earlier decision, the decision in the *Boston Ins. Co.* case required the reversal of Law Opinion 799, which had held that reserves maintained to liquidate coupons left with the company to accumulate at interest were reserves within the meaning of the statute, and of that part of Solicitor's Opinion 40 holding that reserves for deferred dividends were within the meaning of the statute. Solicitor's Recommendation 9610, C. B. V-2, p. 189 (1926) reversed Law Opinion 799 and General Counsel's Memorandum 5782, C. B. VIII-1, p. 269 (1929) overruled Solicitor's Opinion 40 to the extent necessary. The validity of the reversal of Solicitor's Opinion 40 was upheld by the Court of Claims in *Minnesota Mutual Life Ins. Co. v. U. S.*, 66 Ct. Cl. 481, the Supreme Court denying the taxpayer's petition for a writ of certiorari, 279 U. S. 586. Regulations 62, 65, and 69 were amended to conform to the court's modified definition of the term "reserve". (See Treasury Decision 4615, C. B. XIV-2, p. 310 (1935), modifying Article 635.)

⁸⁵ *New York Life Ins. Co. v. Edwards*, 271 U. S. 109 (1926). The case also held that reserves for annuities payable to superannuated soliciting agents were not reserves within the meaning of the 1913 act.

⁸⁶ *Helvering v. Inter-Mountain Life Ins. Co.*, 294 U. S. 686 (1935). This decision sustained *Mass. Mut. Life Ins. Co. v. U. S.*, 56 Fed. (2d) 897 (1932) and *Continental Assurance Co. v. U. S.*, 8 F. Supp. 474 (Ct. Cl. 1934). This decision overruled *Standard Life Ins. Co.*, 13 BTA 13 (1928); *Reserve Loan Life Ins. Co.*, 18 BTA 359 (1929); *Commissioner v. Standard Life Ins. Co.*, 47 Fed. (2d) 218 (1931); *Commissioner v. Western Union Life Ins. Co.*, 61 Fed. (2d) 207 (1932); and *Missouri State Life Ins. Co.*, 29 BTA 401 (1933), 73 Fed. (2d) 778 (1934).

assigned for holding such reserves ineligible was that they were not held to meet liabilities on life insurance risks.⁸⁷ In a later case this dictum was repeated, reserves in respect of contingent liabilities on survivorship investment funds being deemed outside the scope of the statutory term "reserve" because such reserves had no relation to life insurance risks.⁸⁸

Following the *Illinois Life* decision the Bureau decided to test the strength of the dicta that only reserves having a relation to life insurance risks were within the meaning of the term "reserve". The item selected for litigation was the "extra reserve for total and permanent disability benefits and for additional accidental death benefits included in life policies".⁸⁹ The Bureau contends that this is a casualty reserve having no connection with the reserve held to meet contingent liabilities on life insurance contracts. The companies contend, on the other hand, that this is a reserve held to meet contingent liabilities incidental to life insurance contracts. The Court of Claims sustained the contention of the Bureau, and the Supreme Court denied the taxpayer's petition for a writ of certiorari.⁹⁰ The Board of Tax Appeals and the Circuit Courts, however, have ruled against the Bureau.⁹¹ Because of the conflict between the decisions of the lower courts, the Supreme Court, on the petition of the New World Life Insurance Company to reconsider the denial of a writ of certiorari, granted a rehearing on the petition for a writ, and granted the writ subsequent to the decision of the Circuit Court in the *Pan-American* case. The Supreme Court has not as yet decided this question as to whether the "extra reserve for total and permanent disability benefits and for additional accidental death benefits included in life policies" is or is not a life insurance reserve within the meaning of the statute.

By regulation, certain specific balance sheet items have been held not to be within the meaning of the statutory term "reserve".⁹² The Board of Tax Appeals has to some extent restricted the definition of "reserve" by holding that the statutory term does not include the guarantee capital of a life insurance company deposited with a State Insurance Department,⁹³ and that it does not include a contingency reserve for anticipated excessive mortality losses and possible losses in reserves invested.⁹⁴

E. RATES OF TAX

The rates of tax applicable to the net income of life insurance companies have been the same as the rates applicable to the net income of other corporations under the Revenue Acts of 1909-1924, 1928-1934, and 1939, applicable to the periods 1909-1924, 1928-1935, and 1940. Under the Revenue Act of 1926 and the Revenue Acts of 1936 and 1938 applicable to the periods 1925-1927 and 1936-1939, the rates of tax on insurance companies have differed from the rates of tax applicable to ordinary corporations. A tabular summary of the rates of tax on life insurance companies and on ordinary corporations is given below.

Under the Revenue Act of 1936, life insurance companies were taxed at a flat rate rather than under the graduated normal tax rates imposed on ordinary corporations. Life insurance companies were not subject to the undistributed profits tax imposed on ordinary corporations under the 1936 and 1938 acts.

⁸⁷ Id. at 690.

⁸⁸ *Helvering v. Illinois Life Ins. Co.*, 299 U. S. 88 (1936).

⁸⁹ Annual Statement of Life Insurance Companies, item V-8.

⁹⁰ *New World Life Ins. Co. v. U. S.*, 88 Ct. Cl. 405 (1939); certiorari denied, 308 U. S. 612. Re-hearing granted, previous order vacated, and certiorari granted May 20, 1940.

⁹¹ *Commissioner v. Pan-American Life Ins. Co.*, 111 Fed. (2d) 366 (April 20, 1940); *Monarch Life Ins. Co.*, 38 BTA 716 (1938); appeal pending before the Circuit Court of Appeals for the First Circuit; and *Oregon Mutual Life Ins. Co.*, 39 BTA 1239 (1939); affirmed CCA-9; #9318, June 11, 1940 (not yet officially reported).

⁹² The reserve upon which the deduction is based has been held not to include the following:

1. Reserves to provide for the ordinary running expenses of the business, such as taxes, salaries, reinsurance and unpaid brokerage;
2. The reserve or net value of risks reissued in other solvent companies to the extent of the reinsurance;
3. Reserves for premiums paid in advance;
4. Annual and deferred dividends;
5. Accrued unsettled policy claims;
6. Losses incurred but unreported;
7. Liability on supplementary contracts not involving life contingencies;
8. Estimated value of future premiums which have been waived on policies after proof of total and permanent disability.

(Regulations 86, 94, and 101, Article 203 (a) (2)-1; Regulations 103, section 19.203 (a) (2)-1.)

⁹³ *Kaskaskia Life Ins. Co.*, 22 BTA 210 (1931).

⁹⁴ *Old Line Life Ins. Co.*, 31 BTA 758 (1934).

*Rates of tax on domestic life insurance companies and on ordinary corporations,
1909-1940*¹

RATES APPLICABLE TO LIFE INSURANCE COMPANIES SAME AS RATES APPLICABLE
TO ORDINARY CORPORATIONS

Revenue act and year	Rates of tax on—	
	Life insurance companies	Ordinary corporations
Corporation Excise Tax Act of 1909: 1909-February 28, 1913.....	1.0%	1.0%
Act of 1913: March 1, 1913-1915.....	1.0	1.0
Revenue Act of 1916: 1916.....	2.0	2.0
Revenue Act of 1917: 1917.....	6.0	6.0
Revenue Act of 1918: 1918.....		
1919-1920.....	12.0	12.0
Revenue Act of 1921: 1921-1923.....	10.0	10.0
Revenue Act of 1924: 1924.....	12.5	12.5
Revenue Act of 1928: 1928.....	12.5	12.5
1929.....	12.0	12.0
1930-1931.....	11.0	11.0
Revenue Act of 1932: 1932-1933.....	12.0	12.0
Revenue Act of 1934: 1934-1935.....	13.75	13.75
Revenue Act of 1935: 1935-1940.....	13.75	13.75
	² 18.0	⁴ 18.0

RATES APPLICABLE TO LIFE INSURANCE COMPANIES DIFFERENT THAN RATES
APPLICABLE TO ORDINARY CORPORATIONS

Revenue Act of 1926: 1925.....	12.5%	13.0%
1926-1927.....	12.5	13.5
Revenue Act of 1936: 1936-1937.....	15.0	³ 8.0-15.0
Revenue Act of 1938: 1938-1939.....	16.5	⁴ 19.0

¹ Intercorporate dividends received were taxable in full under the 1913 and 1916 acts at the rate of 1 and 2 percent, respectively, and were taxed under the 1917 act as follows:

Year dividend income earned:	Rate
March 1, 1913-1915.....	1.0%
1916-1917.....	2.0

Under the 1918 and subsequent acts intercorporate dividends received from domestic corporations were exempt from tax except that since the 1936 act 15 percent of such dividends were included in taxable income. The exemption did not apply under the 1918 act or the 1932 and subsequent acts to dividends received from tax-exempt corporations.

² A scale of lower graduated rates ranging from 12.5 to 16 percent is provided for companies with net incomes of \$25,000 or less.

³ The normal tax rates shown ranged from 8 percent on the first \$2,000 of normal tax net income to 15 percent on normal tax net income in excess of \$40,000. In addition, a surtax on undistributed profits ranging from 7 to 27 percent was imposed on ordinary corporations, but not upon insurance companies.

⁴ The rate shown is the rate applicable to corporations with net incomes over \$25,000 before allowance of the 2.5 percent credit for dividends paid. A scale of lower graduated rates, ranging from 12.5 to 16 percent was provided for ordinary corporations with net income of \$25,000 or less but not for life insurance companies.

F. FOREIGN COMPANIES

During the period 1909-1920, foreign life insurance companies were subject to the provisions applicable generally to foreign corporations, that is, they were taxable upon net income arising from business transacted and capital invested within the United States. Foreign life insurance companies were allowed to exclude from gross income that portion of premiums received which in the taxable year had been paid back or credited to policyholders or treated as an abatement of premiums. They were allowed the same deductions granted other foreign corporations, and in addition, were allowed to deduct (1) the net addition, if any, required by law to be made within the year to reserve funds and (2) sums other than dividends paid within the year on policy and annuity contracts. The rates applicable to taxable net income were the same for all corporations, domestic and foreign.

The Revenue Acts of 1921-1939 provide that "in the case of a foreign life insurance company the amount of its net income for any taxable year from sources within the United States shall be the same proportion of its net income for

the taxable year from sources within and without the United States which the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States is of the reserve funds held by it at the end of the taxable year upon all business transacted."⁹⁵

Any branch or agency of a foreign insurance company which transacts business in the United States or in any United States territory is deemed to be transacting business within the United States, and all of the business transacted by such branch or agency is deemed to be business transacted within the United States.⁹⁶

A foreign life insurance company which does not transact business within the United States and which holds no reserve fund upon business transacted within the United States, but which derives income from sources within the United States, is subject to taxation upon the income derived from sources within the United States.⁹⁷ Under the Revenue Acts of 1921-1934, the United States income of such foreign life insurance companies was subject to the tax imposed on life insurance companies, but under the Revenue Acts of 1936-1939 the income of such foreign life insurance companies has been subjected to the taxes imposed upon other foreign corporations.⁹⁸ Under these last three revenue acts, therefore, foreign life insurance companies with no United States insurance business, but deriving income from sources within the United States, have been and are taxed at a rate of 15 percent, except that in the case of dividend income the rate has been 10 percent.⁹⁹ In the case of corporations organized under the laws of a contiguous country the rate of 10 percent on dividend income may be reduced by treaty to a rate of not less than 5 percent.¹⁰⁰

G. EXEMPT COMPANIES

1. *Fraternal beneficiary societies.*

Fraternal beneficiary societies, orders, or associations operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, associations, and dependents of such members are exempt.¹⁰¹

A society or association "operating under the lodge system" was at first considered to be one organized under a charter, with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by fees, dues, or assessments, but under the 1921 and subsequent acts has been regarded as a society or association "carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like".¹⁰²

A "fraternal beneficiary society" was at first defined¹⁰³ as a society whose members have adopted the same or a very similar calling, avocation, or profession, or who are working in unison to accomplish some worthy object, and who for that reason have bound themselves together as an association or society to aid and assist one another and to promote the common cause. The absence of profit in the operation of such an association was not deemed to be the test of the classification, but rather the presence of a fraternal side or object which the society in some manner promoted. A mutual insurance company, in order to qualify for exemption as a fraternal beneficiary association, had to be primarily fraternal under this early ruling.

It was later held¹⁰⁴ that a fraternal beneficiary society, order, or association is exempt if it can be shown that (1) it is operated under the lodge system or for

⁹⁵ Revenue Acts of 1921, 1924, and 1926, section 245 (c); Revenue Acts of 1928, 1932, and 1934, section 203 (c). The Revenue Acts of 1936 and 1938 employed the same formula as above given to determine the tax base of foreign life insurance companies, but substituted "normal-tax net income" for "net income" in the 1936 act and "special class net income" for "net income" in the 1938 act. The 1939 act employs the above given formula, but reverts to "normal-tax net income."

⁹⁶ Regulations 62, 65, and 69, Article 687; Regulations 74 and 77, Article 977; Regulations 86, Article 203 (c)-1.

⁹⁷ Regulations 62, 65, and 69, Article 687; Regulations 74 and 77, Article 977; Regulations 86, Article 203 (c)-1; Revenue Acts of 1936 and 1938, section 201 (b) (3); I. R. C., section 201 (b) (3); Revenue Act of 1939, section 203.

⁹⁸ *Ibid.*

⁹⁹ Revenue Acts of 1936 and 1938, section 231 (a) (1); I. R. C., section 231 (a) (1); Revenue Act of 1939, section 203.

¹⁰⁰ Revenue Acts of 1936 and 1938, section 231 (a); I. R. C., section 231 (a) (1).

¹⁰¹ Tariff Act of 1909, section 38; Tariff Act of Oct. 3, 1913, section 11-G (a); Revenue Act of 1916, section 11 (a) Third; Revenue Acts of 1918, 1921, 1924, and 1926, section 231 (3); Revenue Acts of 1928 and 1932, section 103 (3); Revenue Acts of 1934, 1936, and 1938, section 101 (3); I. R. C. (1939), section 101 (3).

¹⁰² Regulations 62, 65, and 69, Article 514; Regulations 74 and 77, Article 524; Regulations 86, 94, and 101, Article 101 (3)-1; Regulations 103, section 19.101 (3)-1.

¹⁰³ Office Decision 690, C. B. 3, p. 236 (1920).

¹⁰⁴ Office Decision 1516, C. B. 1-2, p. 180 (1922).

the exclusive benefits of the members of any society so operated and (2) it has an established system for the payment to its members or their dependents of life, sick, accident, or other benefits. Under this later ruling it is not necessary that the fraternal feature of the organization should predominate; it is sufficient if both the fraternal and the benefit features are present.

In the case of an incorporated society operating under the lodge system throughout the United States, whose charter provided for the union of eligible members into a grand fraternal beneficial, educational, and patriotic society, levying assessments upon its members to provide for the payment of sick and death benefits, for disability relief in case of accident, and for promoting their social, moral, education, and patriotic advancement, but also deriving income from subscriptions to a daily and a weekly newspaper which it published as well as from job printing and other sources, none of the income of the society inuring to the benefit of any private stockholder or individual, it was held that, although this society had fraternal and beneficial features, it was chiefly a patriotic organization, interested in the general welfare of its members and that its powers were so extensive as to make it ineligible for the exemption provided for fraternal beneficiary societies.¹⁰⁵

2. Benevolent life insurance associations of a purely local character.

Prior to enactment of the Revenue Act of 1924, benevolent life insurance companies of a purely local character were not specifically exempted under the Federal income tax statutes.¹⁰⁶ Under the 1924 and subsequent acts, such associations have been exempted, provided that 85 percent or more of the income of such association consists of amounts collected from members for the sole purpose of meeting losses and expenses.¹⁰⁷

If a benevolent life insurance association issues policies for stipulated cash premiums, or if it requires advance deposits to cover the cost of the insurance and maintains investments from which more than 15 percent of its income is derived, it is not entitled to exemption. An organization may, however, be entitled to exemption even though it makes advance assessments for the sole purpose of meeting future losses and expenses provided that the balance of such assessments remaining on hand at the end of the year is retained to meet losses and expenses.¹⁰⁸

An organization of a purely local character is deemed to be one whose business activities are confined to a particular community, place, or district, irrespective, however, of political subdivisions. An organization whose activities are limited only by the boundaries of a State is not deemed to be of a purely local character.¹⁰⁹

3. Voluntary employees' beneficiary associations.

Under the 1928 and subsequent acts, voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members or their dependents have been exempt, provided that (1) no part of their net earnings inures to the benefit of any private shareholder or individual, and (2) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses.¹¹⁰

Under the acts prior to the Revenue Act of 1924 employees' associations organized to establish and maintain funds for sick, accident, or death benefits to members had been held not to be exempt.¹¹¹ Under the 1924 act, the first ruling with respect to such companies was that they were not exempt under that act.¹¹² Following the insertion into the law of the statutory provision exempting such companies in the Revenue Act of 1928, the Bureau ruled that such companies were exempt under the 1924 act as well.¹¹³

¹⁰⁵ Office Decision 508, C. B. 2, p. 207 (1920).

¹⁰⁶ Such companies were not exempt, prior to 1924, under the provision exempting "Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character." *Bankers' and Planters' Mutual Insurance Association v. Walker*, 279 Fed. 53 (1922); *Swedish Mission Friends' Aid Association*, 12 BTA 1152 (1928); and *Shelby County Mutual Relief Association v. Schwaner*, 21 Fed. (2d) 252 (D. C. Ill. 1927).

¹⁰⁷ Revenue Acts of 1924 and 1926, section 231 (10); Revenue Acts of 1928 and 1932, section 103 (10); Revenue Acts of 1934, 1936, and 1938, section 101 (10); I. R. C. (1939), section 101 (10).

¹⁰⁸ Regulations 65 and 69, Article 521; Regulations 74 and 77, Article 531; Regulations 86, 94, and 101, Article 101 (10)-1; Regulations 103, section 19.101 (10)-1.

¹⁰⁹ *Ibid.*

¹¹⁰ Revenue Acts of 1928 and 1932, section 103 (16); Revenue Acts of 1934, 1936, and 1938, section 101 (16); I. R. C. (1939), section 101 (16).

¹¹¹ *Philadelphia and Reading Relief Association*, 4 BTA 713 (1926); *Atlantic Coast Line R. R. Co. v. U. S.*, 71 Ct. Cl. 380 (1930); *Employees' Benefit Association of American Steel Foundries*, 14 BTA 1166 (1929).

¹¹² I. T. 2117, C. B. III-2, p. 229 (1924).

¹¹³ I. T. 2425, C. B. VII-2, p. 153 (1928).

4. *Voluntary Federal government employees' beneficiary associations.*

The Revenue Act of 1939 added voluntary Federal government employees' beneficiary associations to the list of exempt life insurance companies.¹¹⁴ Exemption is limited to those companies no part of the net earnings of which inure to the benefit of any private shareholder or individual.¹¹⁵

II. CONSOLIDATED RETURNS

1. *Domestic companies.*

Prior to the enactment of the Revenue Act of 1918, no mention of consolidated returns was made in the income tax statutes. The Revenue Act of 1918 made it mandatory that affiliated groups of domestic corporations file consolidated returns.¹¹⁶ Life insurance companies were not specifically exempted from this requirement.¹¹⁷

For the years 1922-1928, affiliated groups of domestic corporations were granted the privilege of filing either separate returns for each corporation or a consolidated return for the group.¹¹⁸ Although life insurance companies were not specifically mentioned in the provisions of law relating to consolidated returns, it was apparently the practice during the period 1921-1924 for life insurance companies to be included in affiliated groups along with ordinary corporations filing consolidated returns. During the years 1921-1924 the question of whether or not life insurance companies could be so included along with ordinary corporations was not of particular importance, since the rates of tax on both insurance companies and ordinary corporations were the same. With the introduction of a rate differential in favor of life insurance companies in 1925, however, the question became of prime importance, because of the difficulty involved in determining what portion of the net income of the affiliated group was to be taxed at the lower rate applicable to life insurance companies. The Commissioner at first sanctioned the practice of including life insurance companies in affiliated groups along with ordinary corporations, as is evidenced by the ruling that—

"where a tax is assessed upon the basis of a consolidated return, and one of the affiliated companies, on the basis of a separate return, would be entitled to the lower rate of tax allowed domestic insurance companies * * * no part of the consolidated net income will be taxable at such lower rate unless the group of affiliated corporations as a whole can qualify as a domestic insurance company." ¹¹⁹

This ruling was subsequently revoked by a later ruling that insurance companies were not to be included in an affiliated group along with ordinary corporations filing a consolidated return.¹²⁰ The Revenue Act of 1928 introduced the statutory provision, applicable prospectively only, that for 1929 and subsequent years—

"an insurance company * * * shall not be included in the same consolidated return with [an ordinary] corporation." ¹²¹

The Revenue Act of 1932 carried the prohibition further by providing that—

"life insurance companies may not file consolidated returns with insurance companies other than life or mutual." ¹²²

Not until 1933 was a decision finally made that, for the entire period since the introduction of the optional provision for the year 1922, life insurance companies could not be included along with ordinary corporations in an affiliated group filing a consolidated return.¹²³

Throughout this period affiliated groups of insurance companies were given the option of filing consolidated returns. Prior to 1932, affiliated life and non-life insurance companies could file a consolidated return.¹²⁴ Under the Revenue Act of 1932 affiliated life insurance companies could file a consolidated return,

¹¹⁴ Revenue Act of 1939, section 217.

¹¹⁵ *Ibid.*

¹¹⁶ Revenue Act of 1918, section 240.

¹¹⁷ *Ibid.*

¹¹⁸ Revenue Acts of 1921, 1924, and 1926, section 240.

¹¹⁹ Office Decision 2355, C. B. VI-1, p. 98 (1927).

¹²⁰ General Counsel's Memorandum 5609, C. B. VIII-1, p. 186 (1928); Office Decision 2448, C. B. VIII-1, p. 188 (1928).

¹²¹ Revenue Act of 1928, section 141 (c).

¹²² Revenue Act of 1932, section 141 (c).

¹²³ *National Life Ins. Co. v. U. S.*, 4 Fed. Supp. 1000 (1933).

¹²⁴ Regulations 74, Article 713.

but life insurance companies were not to be included in affiliations along with non-life insurance companies or with ordinary corporations filing consolidated returns.¹²⁵

Under the Revenue Act of 1934 and subsequent acts the privilege of filing consolidated returns for 1934 and subsequent years has been confined to railroad carriers and to holding companies whose assets consist principally of stock in railroad carrier corporations.¹²⁶

2. *Foreign companies.*

Even under the mandatory provision of the Revenue Act of 1918, applicable through 1920, calling for consolidated returns from affiliated groups, the mandate was restricted to affiliated groups of domestic corporations.¹²⁷ Domestic corporations, including life insurance companies, were not permitted to include the net income of an affiliated foreign corporation in a consolidated return.¹²⁸

Under the optional provision concerning consolidated returns introduced by the 1921 act, as under the 1918 act, the definition of affiliation was confined to domestic corporations. This restriction continued until the Revenue Act of 1928.¹²⁹ Under the 1928 and 1932 acts a special provision was introduced to allow the inclusion of certain Canadian and Mexican corporations in affiliated groups filing consolidated returns, as follows:

"In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation, of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this title as a domestic corporation."¹³⁰

This privilege of including certain Canadian and Mexican companies in the affiliated group was apparently available to insurance companies as well as to other types of corporations until 1934, when the privilege of filing consolidated returns was limited to railroad corporations, as hereinbefore noted.

II. TAXATION OF LIFE INSURANCE COMPANIES UNDER THE CAPITAL STOCK TAX

A. GENERAL STATEMENT

A tax on the privilege of carrying on or doing business by corporations, joint-stock companies or associations, or insurance companies, measured by the fair average value of the taxpayer's capital stock during the preceding year (including surplus and undivided profits) was introduced under the Revenue Act of 1916 and was in effect during the period 1917-1921.¹³¹ In the case of a domestic life insurance company, deposits and reserve funds required by law or contract to be maintained or held for the protection of or payment to or apportionment among policyholders were not to be included in determining the value of the capital stock.¹³² The measure of the tax in the case of a foreign corporation was the capital actually invested in the transaction of its business in the United States, except that in the case of a foreign life insurance company such deposits or reserve funds as it was required by law or contract to maintain or hold in the United States for the protection of or payment to or apportionment among policyholders did not have to be included.¹³³

An exemption of \$99,000 from the value of the capital stock was allowed in the case of domestic corporations, and, in the case of foreign corporations, an exemption was allowed equal to such proportion of \$99,000 as the amount of capital invested in the transaction of business in the United States bore to the total amount of capital invested.¹³⁴ Under the 1918 act this exemption was reduced from \$99,000 to \$5,000, and was restricted to domestic taxpayers.¹³⁵

¹²⁵ Revenue Act of 1932, section 141 (e).

¹²⁶ Revenue Acts of 1934, 1936, and 1938, section 141 (d) (3); I. R. C. section 141 (d) (3).

¹²⁷ Revenue Act of 1918, section 240.

¹²⁸ Regulations 45, Article 636.

¹²⁹ Revenue Acts of 1921, 1924, and 1926, section 240.

¹³⁰ Revenue Acts of 1928 and 1932, section 141 (h).

¹³¹ Revenue Act of 1916, section 407.

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ Revenue Act of 1918, sections 1000 (a) (1) and (2).

The rate of tax under the Revenue Act of 1916 and that act as amended by the Revenue Act of 1917 was 50 cents per \$1,000. The rate under the Revenue Act of 1918 was \$1.00 per \$1,000.¹³⁶

Fraternal beneficiary societies exempt under the income tax were also exempt under the capital stock tax.¹³⁷

Under the Revenue Acts of 1921 and 1924 life insurance companies were exempted from the capital stock tax.¹³⁸ This tax was repealed for all corporations by the 1926 act.¹³⁹

Under the National Industrial Recovery Act of June 16, 1933, a capital stock tax was reintroduced, this tax having been continued in effect under subsequent revenue acts.¹⁴⁰ Life insurance companies are exempt from this present capital stock tax.¹⁴¹

B. THE TAX BASE

Whether an insurance company was to be classed as a stock or mutual company depended upon the ultimate control of the affairs of the company—if the policyholders were in control, it was deemed a mutual company; if the stockholders were in control, it was a stock company.¹⁴²

In *Equitable Life Assurance Society of the U. S. v. Bowers*,¹⁴³ the plaintiff was a stock company under New York law. However, all of its stock except a very small amount had been acquired by the company and was held in trust for the benefit of the policyholders. The question was whether the Equitable was a stock company subject to tax under the Revenue Act of 1918 only on the net worth of the stock,¹⁴⁴ or whether it was a mutual company taxable on its much larger net worth to its policyholders.¹⁴⁵ The Circuit Court for the Second Circuit, speaking through Justice Learned Hand, held that, although the company was a stock company under the New York law creating and regulating it, it was a mutual company for purposes of the Federal income tax.¹⁴⁶

1. Stock companies.

Under the Revenue Act of 1916, stock life insurance companies, that is, insurance companies organized for profit having capital stock represented by shares, were subject to the capital stock tax along with other types of corporations, except that, as hereinbefore noted, deposits and reserve funds required by law or contract to be maintained for the protection of policyholders were not to be included in the determination of the value of the capital stock for tax purposes.¹⁴⁷

Under the Revenue Act of 1918, it was provided by regulation that insurance companies having capital stock were taxable like other corporations, whether foreign or domestic, and that, in addition to the exclusion of the legal reserve funds allowed under the 1916 act, reserves which represented actually accrued liabilities (credits to which were deducted from gross income as ordinary and necessary business expenses) were to be omitted.¹⁴⁸ The tax was computed by deducting from the total book value of the assets the amount of the actual liabilities and legal reserves, unless there was indication that the book value was substantially different from fair market value, in which case adjustment could be made to take into account market value of the shares and net earnings of the company.¹⁴⁹ It was further provided that if the fair average value of the capital stock was esti-

¹³⁶ Revenue Act of 1916, section 407; Revenue Act of 1918, sections 1000 (a) and (c).

¹³⁷ Revenue Act of 1916, section 407; Revenue Act of 1918, section 1000 (c). For a discussion of the interpretation accorded the term "fraternal beneficiary society", see section I-G-1, pages 18116-7. A voluntary unincorporated association of employees formed for the purpose of relieving sick and aged members and the dependents of deceased members was deemed to be an insurance company subject to the capital stock tax, whether the fund for such purpose was created wholly by membership dues or partly by contributions from the employer (Regulations 50, Article 23).

¹³⁸ Revenue Act of 1921, section 1000 (b); Revenue Act of 1924, section 700 (b).

¹³⁹ Revenue Act of 1926, section 1200.

¹⁴⁰ N. I. R. A., section 215; Revenue Act of 1934, section 701; Revenue Act of 1936, section 401; I. R. C., sections 1200-1207.

¹⁴¹ *Ibid.*

¹⁴² Solicitor's Opinion 101, C. B. I-1, p. 452 (1922).

¹⁴³ 87 Fed. (2d) 687 (1937).

¹⁴⁴ Revenue Act of 1918, section 1000 (b).

¹⁴⁵ Revenue Act of 1918, section 1000 (c).

¹⁴⁶ 87 Fed. (2d) 687 (1937), at 690. The decision carries some interesting dicta. Judge Hand felt called upon to write as follows, at pages 689-690:

"It is true that nobody has been able to find any reason for the distinction made between stock companies and mutual, probably none was really intended But it is not a reason for perverting the natural meaning of the words that we cannot fathom why they were used at all, or that we may suspect that they never would have been, had they been understood." Italics supplied.

¹⁴⁷ Regulations 38, Article 1; Regulations 38 (revised), Article 3 and 8.

¹⁴⁸ Regulations 50, Article 41.

¹⁴⁹ Regulations 50 (revised), Article 41 (Treasury Decision 2979).

mated from the market price of the shares of stock of the company, no deduction for deposits or reserves was proper from the total value so established.¹⁵⁰

2. Mutual companies.

At first mutual life insurance companies were by regulation exempted from the capital stock tax for the reason that, in the absence of capital stock, there was no basis in the law upon which the tax could be computed for such companies.¹⁵¹ However, in 1918, the regulations issued under the 1916 act were revised to include mutual life insurance companies as taxpayers, the capital stock of mutual insurance companies being deemed to be "any capital or surplus or contingent reserves invested in real estate and other assets or maintained for the general use of the business."¹⁵² Legal reserve funds were to be excluded, as in the case of stock life insurance companies.¹⁵³

Under the Revenue Act of 1918 it was by statute specifically provided that—

"The taxes imposed * * * shall apply to mutual insurance companies, and in the case of every such domestic company the tax shall be equivalent to \$1 for each \$1,000 of the excess over \$5,000 of the sum of its surplus or contingent reserves maintained for the general use of the business and any reserves the net additions to which are included in net income under the [income tax], as of the close of the preceding accounting period * * *. *Provided*, That in the case of a foreign mutual insurance company the tax shall be equivalent to \$1 for each \$1,000 of the same proportion of the sum of such surplus and reserves, which the reserve fund upon business transacted within the United States is of the total reserve upon all business transacted, as of the close of the preceding accounting period * * *." ¹⁵⁴

Mutual insurance companies in computing their capital stock tax bases were allowed to deduct from total assets the following: (1) debt liabilities, (2) the legal reserves, and (3) such percentage of the amount of shrinkage from the total value of the assets to the market value of the assets as the amount of the assets in excess of the legal reserves bore to the total assets.¹⁵⁵

It will be noted that although stock life insurance companies were allowed to exclude "such deposits and reserve funds as they were required by law or contract to maintain or hold for the protection of or payment to or apportionment among policyholders," ¹⁵⁶ mutual companies were not accorded the benefit of this blanket exclusion, being required to include in the computation of the tax base—

"* * * any reserves the net additions to which are included in net income under the [income tax]." ¹⁵⁷

This differentiation in the treatment accorded stock and mutual life insurance companies worked a hardship upon such mutual life insurance companies with large deferred dividend reserves, because such reserves, under the sections of the law above noted, had to be included in the capital stock tax base of mutual insurance companies, but did not have to be included in the capital stock tax base of stock life insurance companies.¹⁵⁸ The basis for this distinction was that, in the case of a stock company, the law attempted to subject to capital stock tax *the net worth of the proprietary interest of the stockholders*, whereas, in the case of a mutual company, the attempt was to tax the "proprietary" interest of the *policyholders*.

In taxing mutual life insurance companies upon the net worth of the proprietary interest of the policyholders, Congress apparently chose to regard the interest of the policyholders in the legal reserve as "contractual" rather than "proprietary", since the interest of the policyholders in the legal reserve was exempted from the tax. The net worth of the legal reserve thus escaped the capital stock tax both in the case of stock and mutual companies.

¹⁵⁰ Regulations 50, Article 41.

¹⁵¹ Regulations 38, Article 2 (b).

¹⁵² Regulations 38 (revised), Article 3.

¹⁵³ *Ibid.*

¹⁵⁴ Revenue Act of 1918, section 1000 (c).

¹⁵⁵ Law Opinion 1078, C. B. I-1, p. 457 (1922). "Total assets" meant all the admitted assets of the company, whether ledger or nonledger, at the value reported to and accepted by the State insurance department.

¹⁵⁶ Revenue Act of 1918, section 1000 (b).

¹⁵⁷ Revenue Act of 1918, section 1000 (c).

¹⁵⁸ Solicitor's Opinion 101, C. B. I-1, p. 452 (1922). Although deferred dividend reserves had to be included in computing the capital stock tax base, dividends declared unconditionally due, and payable at the close of the given accounting period were deductible. (Law Opinion, 1078, C. B. I-1, p. 457 (1922)).

III. TAXATION OF LIFE INSURANCE COMPANIES UNDER THE EXCESS-PROFITS TAX

A. GENERAL STATEMENT

Life insurance companies were subject to the taxes on excess profits imposed under the Revenue Acts of 1917, 1918, and 1921.¹⁵⁹ The Revenue Act of 1921 provided that the excess-profits tax was to be continued only for the year 1921.¹⁶⁰

Life insurance companies are not subject to the present excess profits tax first imposed in 1933 under the National Industrial Recovery Act and thereafter continued in effect under later revenue acts.¹⁶¹

For the year 1917 the excess profits tax on corporations including life insurance companies ranged from 20 percent on that part of net income not in excess of 15 percent of invested capital to 60 percent of that part of net income in excess of 33 percent of such capital.¹⁶² A specific exemption of \$3,000 was allowed domestic corporations, and, in addition, a further exemption based on the "pre-war" earnings (as defined in the act) of the taxpayer was allowed.¹⁶³ This latter exemption was not to be less than 7 percent nor more than 9 percent of the invested capital.¹⁶⁴ Both domestic and foreign corporations were allowed the benefit of this latter exemption.¹⁶⁵ Both exemptions were deductible only from the first tax bracket.¹⁶⁶ Income derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan was exempt.¹⁶⁷

Under the Revenue Act of 1918 the rates of the excess profits tax on corporations, including life insurance companies, for the year 1918 were raised to 30 percent on that part of net income not in excess of 20 percent of invested capital, and to 65 percent on that part of net income in excess of 20 percent of invested capital.¹⁶⁸ In addition, under the war profits tax a rate of 100 percent was imposed upon the sum, if any, by which 80 percent of the net income in excess of the war profits credit (as defined in the act) exceeded the amount of the tax imposed under the 30 and 65 percent rates.¹⁶⁹ In no case, however, were the excess and war profits taxes to exceed 30 percent of that part of net income not in excess of \$20,000 plus 80 percent of that part of net income in excess of \$20,000.¹⁷⁰ As under the 1917 act a specific exemption of \$3,000 was allowed domestic corporations under the 1918 act, but the additional exemption allowed both domestic and foreign corporations under the excess profits tax was no longer made to depend on "pre-war" earnings, being fixed at 8 percent of the invested capital for the taxable year.¹⁷¹ As under the 1917 act the exemptions were deductible only from the first tax bracket.¹⁷²

Under the 1918 act, the rates of excess profits tax for the years 1919-1921 were lowered to 20 percent of that part of net income not in excess of 20 percent of invested capital and to 40 percent of that part of net income in excess of 20 percent of invested capital.¹⁷³ The specific exemption and the additional exemption of 8 percent of invested capital remained as for the year 1918.¹⁷⁴

No special provision was made for foreign insurance companies. Under the Revenue Act of 1917 foreign corporations, including foreign insurance companies, were taxed on the basis of their net incomes from sources within the United States, the invested capital of such corporations being deemed to be that proportion of the entire invested capital which net income from sources within the United States bore to entire net income.¹⁷⁵ Under the 1918 act a new method of determining the excess profits tax due from foreign corporations was introduced, the tax being an amount bearing the same ratio to the net income of the taxpayer for the taxable year (in excess of the specific exemption of \$3,000), as the average tax of representative corporations engaged in a like or similar trade bore to their average

¹⁵⁹ Revenue Act of 1917, section 200; Revenue Acts of 1918 and 1921, section 304 (a).

¹⁶⁰ Revenue Act of 1921, section 301 (a).

¹⁶¹ N. I. R. A., section 216; Revenue Act of 1934, sections 702 and 701 (c) (2); Revenue Act of 1935, section 106 and 105 (c) (2); I. R. C., sections 600 and 1201 (a) (2).

¹⁶² Revenue Act of 1917, section 201.

¹⁶³ Revenue Act of 1917, sections 203 (a) and 203 (c).

¹⁶⁴ Revenue Act of 1917, section 203 (a).

¹⁶⁵ Revenue Act of 1917, sections 203 (a) and 203 (c).

¹⁶⁶ Revenue Act of 1917, section 201.

¹⁶⁷ Revenue Act of 1917, section 201 (c).

¹⁶⁸ Revenue Act of 1918, section 301 (a).

¹⁶⁹ *Ibid.*

¹⁷⁰ Revenue Act of 1918, section 302.

¹⁷¹ Revenue Act of 1918, section 312.

¹⁷² Revenue Act of 1918, section 301 (a).

¹⁷³ Revenue Act of 1918, section 301 (b).

¹⁷⁴ Revenue Act of 1918, section 312.

¹⁷⁵ Revenue Act of 1917, sections 200 and 207 (b).

net income (in excess of the \$3,000 specific exemption) for such year.¹⁷⁶ The foreign corporation was compared with domestic corporations which were similarly circumstanced with respect to gross income, net income, profits per unit of business transacted, and capital employed.¹⁷⁷

Fraternal beneficiary societies exempt under the income tax were also exempt under the excess profits tax.¹⁷⁸ Under the 1917 act insurance companies whose incomes were derived exclusively from the business of life, health, and accident insurance combined in one policy issued on the weekly premium plan were exempt,¹⁷⁹ but such companies were taxable under the 1918 act.¹⁸⁰

B. THE DETERMINATION OF INVESTED CAPITAL

1. *Stock companies.*

The invested capital of a stock insurance company was deemed to consist of its capital stock, paid in or earned surplus and undivided profits as of the beginning of the taxable year.¹⁸¹ Invested capital was not to include stocks and bonds (other than obligations of the United States) or other assets the income from which was not subject to the excess profits tax.¹⁸² Nor was invested capital to include "money or other property borrowed", which term was defined to include not only cash or other borrowed property which could be identified as such but also current liabilities and temporary indebtedness of all kinds, and any permanent indebtedness upon which the taxpayer was entitled to an interest deduction in computing net income.¹⁸³ The legal reserve funds of stock companies were not to be included in invested capital.¹⁸⁴ Stock insurance companies were subject to the rules applicable to corporations in general with regard to the adjustments to be made in determining the value of invested capital.¹⁸⁵

2. *Mutual companies.*

a. *General statement.*—The invested capital of a mutual insurance company was deemed to consist of the sum of (1) any surplus or contingent reserves maintained for the general use of the business plus (2) any legal reserves the net additions to which were included in net income subject to tax.¹⁸⁶ As in the case of stock insurance companies and corporations in general, invested capital was not to include tax-free assets other than obligations of the United States.¹⁸⁷

b. The controversy with respect to the legal reserve: The problem of the legal reserve was whether such reserve was an asset to be included in mutual life insurance company invested capital or a debt liability not to be included in such invested capital.¹⁸⁸ The mutual insurance companies contended that title to the legal reserve was in the insurance companies, that payments by policyholders into the reserve were analogous to payments for stock made by a stockholder in a joint-stock company, that until the maturity of a policy the policyholder is simply a member of the corporation with no present enforceable right against the assets, and that therefore it was the intention of Congress, in the absence of express stipulation to the contrary, that the legal reserve fund was to be regarded as an asset to be included in invested capital.¹⁸⁹ The Bureau, on the other hand, contended that, because of the fact that at the maturity of a policy the policyholder would have an enforceable claim against the reserve set up to mature the policy, the legal reserve was not analogous to the capital stock of a joint-stock company, but was rather a debt liability not to be included in the computation of invested capital.¹⁹⁰

The Revenue Act of 1917 did not specify whether or not the legal reserves of mutual life insurance companies were to be included in invested capital, but by regulation it was provided that only legal reserves the net additions to which were included in net income were to be included in the computation of invested

¹⁷⁶ Revenue Act of 1918, sections 327 and 328.

¹⁷⁷ Revenue Act of 1918, section 328.

¹⁷⁸ Revenue Act of 1917, section 201 (b); Revenue Act of 1918, section 304 (a).

¹⁷⁹ Revenue Act of 1917, section 201 (c).

¹⁸⁰ Revenue Act of 1918, section 304.

¹⁸¹ Regulations 41, Article 65 (b).

¹⁸² Regulations 41, Article 44.

¹⁸³ Regulations 41, Article 44.

¹⁸⁴ Office Decision 2423 C-B VII-2, p. 320 (1928).

¹⁸⁵ Regulations 41, Article 65 (b).

¹⁸⁶ Regulations 41, Article 65 (a).

¹⁸⁷ Regulations 41, Article 44.

¹⁸⁸ *Duffy v. Mutual Benefit Life Ins. Co.*, 272 U. S. 613 (1926).

¹⁸⁹ *Duffy v. Mutual Benefit Life Ins. Co.*, 272 U. S. 613, 618-619 (1926).

¹⁹⁰ *Duffy v. Mutual Benefit Life Ins. Co.*, 272 U. S. 613, 618 (1926).

capital.¹⁹¹ This meant that the true legal reserve fund, that is, the aggregate of the reserves built up to mature each policy, was not to be included in invested capital. In 1923, the Committee on Appeals and Review, in holding that, under the Revenue Act of 1917, the legal reserve fund of a mutual life insurance company, the net additions to which were deductible from gross income under the income tax, was not to be included in invested capital, sustained the Bureau in its contention that the legal reserve fund was to be properly regarded as a debt liability rather than as a contributed asset.¹⁹² But later, in 1926, the Supreme Court decided that under the Revenue Act of 1917 a mutual life insurance company was entitled to include its legal reserve fund in its invested capital.¹⁹³

Under the Revenue Act of 1918, it was at first by regulation provided that the reserve funds of mutual and stock insurance companies, the net additions to which were deductible from gross income under the income tax, were not to be included in the computation of invested capital.¹⁹⁴ This regulatory provision was amended in 1921 to allow the inclusion of reserve funds in invested capital to insurance companies other than life.¹⁹⁵ Later, in 1927, after the decision of the Court in the *Mutual Benefit Life* case, the allowance was extended to mutual life insurance companies.¹⁹⁶ Still later it was decided that stock life insurance companies were also privileged to include their legal reserves in invested capital.¹⁹⁷

The net result of the *Mutual Benefit* and the *Atlantic Life* cases was to allow all life insurance companies to include in invested capital the value of their legal reserves, thus minimizing excess profits tax liability. When it is remembered that under the capital stock tax Congress declared that the value of their legal reserves was not to be regarded for tax purposes as part of the net worth of life insurance companies, the anomaly, so favorable to the life insurance companies, becomes clear. On the one hand, the legal reserve was not regarded as part of the net worth of the insurance companies, thus minimizing capital stock tax liability. On the other hand, the legal reserve was regarded as part of the invested capital of insurance companies, thus minimizing excess profits tax liability. The anomaly is this: that which Congress had declared not to be a part of the net worth of certain companies for tax purposes was regarded by the courts as part of the invested capital of such companies for tax purposes. It is difficult to understand how that which had been deemed not to be part of net worth could be regarded as part of invested capital.

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¹⁹¹ Regulations 41, Article 65 (a).

¹⁹² Appeals and Review Recommendation 3202, C. B. II-2, p. 275 (1923).

¹⁹³ *Duffy v. Mutual Benefit Life Ins. Co.*, 272 U. S. 613 (1926).

¹⁹⁴ Regulations 45, Article 870.

¹⁹⁵ Treasury Decision 3153, C. B. 4, p. 398 (1921); Regulations 62, Article 869.

¹⁹⁶ Treasury Decision 4053, C. B. VI-2, p. 292 (1927).

¹⁹⁷ *Moncre v. Atlantic Life Ins. Co.*, 44 Fed. (2d) 167 (1930).

BRIEF SUBMITTED TO THE TEMPORARY NATIONAL
ECONOMIC COMMITTEE BY THE NATIONAL
ASSOCIATION OF RETAIL DRUGGISTS

IN ANSWER TO MEMORANDUM FOR THURMAN W.
ARNOLD, ASSISTANT ATTORNEY GENERAL OF THE
UNITED STATES, RECOMMENDING REPEAL OF THE
TYDINGS-MILLER AMENDMENT; ALSO MR. ARNOLD'S
REJOINDER

STATE FAIR TRADE LAWS AND THE FAIR TRADE ENABLING ACT

AN ANSWER TO THE BRIEF PRESENTED BY THURMAN W. ARNOLD, ASSISTANT ATTORNEY GENERAL OF THE UNITED STATES, RECOMMENDING REPEAL OF THE TYDINGS-MILLER AMENDMENT¹

Submitted to the Temporary National Economic Committee by the National Association of Retail Druggists, 205 West Wacker Drive, Chicago, Ill.

INTRODUCTION

On February 12, 1941, the Honorable Thurman W. Arnold, Assistant Attorney General of the United States, asked the Temporary National Economic Committee to recommend repeal of the Fair Trade Enabling Act embodied in the Tydings-Miller amendment, and filed with the committee a brief supported by a memorandum by Corwin, D. Edwards, economic consultant to the Antitrust Division of the Department of Justice, and certain other appended material.

In answer to said brief and memorandum, it is submitted that—

1. Fair Trade laws were enacted after full and open hearings by the legislatures of 44 states and approved by their Governors; and the Tydings-Miller Amendment was adopted by the Congress with practical unanimity after lengthy and exhaustive consideration.

2. The state Fair Trade laws, including the so-called "non-signer clause" thereof, are in harmony with the common law and constitute no departure from well established legal principles.

3. The right of the states to govern their internal affairs, including their intra-state commerce, without interference from the Federal government, is inherent in our constitutional system.

4. The principle of the Fair Trade laws is economically sound and the results of their application have justified their enactment.

The foregoing theses are developed in the following brief, which we offer in support of our opposition to the repeal of the Fair Trade Enabling Act.

Respectfully submitted.

THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
JOHN W. DARGAVEL, *Executive Secretary*.

I. *Fair Trade laws were enacted after full and open hearings by the legislatures of 44 states and approved by their Governors; and the Tydings-Miller Amendment was adopted by the Congress with practical unanimity after lengthy and exhaustive consideration.*

A. In order to understand the practical unanimity with which legislative bodies have approved the Fair Trade principle, it is necessary to know something of the history of former attempts to protect resale prices against the depredations of unethical distributors.

The aim of the existing forty-four state Fair Trade acts is to protect a producer or vendor against price-cutting by enabling him to stipulate with his vendee what the minimum resale price of the goods shall be. These apply only to articles of commerce bearing the trade-mark, brand, or name of the producer, and then only when such articles are in free and open competition with other similar merchandise. The limitation to goods identified by trade-mark, brand, or name is important because, although such goods constitute only a small part of goods in commerce, it is that part on which consumers may compare retail prices on identical merchandise and which therefore can be used effectively as loss-leaders by predatory distributors seeking to deceive the public.

The problem has been to determine at what point, as a matter of public policy, the line should be drawn between resale price maintenance for the legitimate and proper protection of the producer, the distributor, and the whole public, and price-fixing *per se*, to be condemned as a restraint of trade and an interfer-

¹ See Final Report and Recommendations of the Temporary National Economic Committee, S. Doc. 35, 77th Cong., 1st sess., Exhibit 2793, p. 232.

ence with normal and fair competition. That line has been drawn in the declaration of public policy embodied in the forty-four state Fair Trade acts.

Almost since the beginning of commerce in its simplest form, the sale of goods from the producer directly to the user, there have been discussions of restraints of trade. At first each community was an isolated section, necessarily dependent on its own resources. Hence, for apparent economic reasons, the lawmakers and courts disapproved any act or contract which interfered with a producer's means of livelihood on the one hand, or on the other hand unduly deprived the public in any manner of the products or skill which should be available to it.¹

With better roads and communication systems, commerce between the hitherto isolated communities began to develop and it was no longer necessary to guard the public so zealously against monopolies or excessive prices of their local producers. People and goods began to be available from other communities and the local producers were kept in check by the new competition. It began to be recognized that even a contract with a clause which laid some restraint upon trade might be valid and acceptable "in cases where the special matter appears so as to make it a reasonable and useful contract." It was said that—

"In all restraints of trade, where nothing more appears, the law presumes them bad; but if the circumstances are set forth, * * * and if upon them it appears to be a just and honest contract, it ought to be maintained."²

As time went by and commerce and industry developed, with more and more interchange between communities and geographical sections, the English courts continued to consider the propriety of each contract brought before them on the basis of the special circumstances surrounding it. As late as 1894, a broader standard was adopted for the determination upon the facts of the reasonableness of a specific contract.³

It is notable that the leading cases in the United States on the question of restraint of trade, through price maintenance and otherwise, have generally been decided upon legal technicalities without the court even having before it any real factual information from which the true effect on trade and the economic welfare of the public could be determined. Yet the public today has as much interest as the public of any earlier period in employment problems as affected by unreasonable price-cutting, the availability of quality merchandise, and the prevention of monopolistic control. It is possible that if our courts could have had before them as much detailed information as the English courts had even in the earlier days, the restrictive decisions on price-maintenance cases would not have been rendered.

The earliest American cases which allowed resale price maintenance were patent cases. The theory behind them was that it was a part of the patentee's lawful monopoly to control (by proper procedure) the conditions of resale of his patented article by the distributor to the ultimate user.⁴ Even after there had been decisions forbidding resale price maintenance contracts on other goods, the new rulings were still thought to have no bearing upon the monopoly of a patentee and his consequent right to prescribe resale conditions.⁵ This theory of the patentee's rights was upheld until 1917.⁶ And even in 1918 Mr. Justice Brandeis urged, in a concurring opinion, that the right of a producer to fix resale prices was an economic question depending upon the relevant facts, rather than upon any established legal principle.⁷

This right of a patentee to fix resale prices was extended and repeatedly recognized and protected by the Federal courts upon the ground of direct analogy between the rights and monopolies of patent and trade secret articles.⁸ But the rule as to trade secret articles was overthrown by a decision of Judge Lurton:⁹

"The mere fact that one article or class of articles is made under an unknown and private formula and another class is not, is an undeniable fact which may serve for some purposes to differentiate them. But that single fact does not afford an economic reason, and still less a legal reason, for saying that it operates to exempt such articles from rules against unlawful restraint of trade."

¹ Oliphant, in *Cases on Trade Regulation*, discusses the early English statutes and cases.

² *Mitchel v. Reynolds*, 1 P. Wms. 181, 197 (1711) cited by Mr. Justice Hughes in *Miles v. Park*, 220 U. S. 373.

³ *Nordenfelt v. Maxim-Nordenfelt Guns & Ammunition Co.*, App. Cas. 535 (1894).

⁴ *Heaton-Peninsular Button-Fastener Co. v. Eureka Specialty Co.*, 77 Fed. 288 (1896); *Henry v. A. B. Dick Co.*, 224 U. S. 1; *Bement v. National Harrow Co.*, 186 U. S. 70.

⁵ *Edison v. Smith Mercantile Co.*, 188 Fed. 925; *Automatic Pencil Sharpener Co. v. Goldsmith*, 190 Fed. 205.

⁶ *Motion Picture Patents v. Universal Film Co.*, 243 U. S. 502, which expressly overruled *Henry v. A. B. Dick*, 224 U. S. 1.

⁷ *Boston Store v. American Graphophone Co.*, 246 U. S. 8.

⁸ *Dr. Miles Medical Co. v. Goldthwaite*, 133 Fed. 794; *Same v. Jaynes*, 149 Fed. 838; *Same v. Platt*, 142 Fed. 606; *Wells & Richardson v. Abraham*, 146 Fed. 190; *Jayne v. Loder*, 149 Fed. 21; *In re Park*, 138 Fed. 421; *Hartman v. Platt*, 142 Fed. 606.

⁹ *Miles v. Park* (C. C. A. 6), 164 Fed. 803, 806.

This decision was followed shortly by, and was accepted by the United States Supreme Court in the first leading case on the subject of price maintenance—*Dr. Miles v. Park* (220 U. S. 373.)

Prior to this decision, producers had looked upon the use of resale price maintenance as their right. The most common device for effectuating it was by written contract with the distributor whereby he agreed not to resell the article below a stipulated price. The Miles Company required every wholesaler and retailer selling its products to sign agreements to sell the goods at prices specified by the company. The defendant in this suit was a wholesaler who induced other wholesalers to sell of it at prices violating the agreement, and who in turn sold the goods to retailers at cut prices. The Court held that the contracts were void as a restraint on the alienation of title to property owned by the dealers, and as a restraint on competition, and for both reasons against the public interest. Mr. Justice Hughes held (p. 409):

"The complainant having sold its product at prices satisfactory to itself, the public is entitled to whatever advantage may be derived from competition in the subsequent traffic."

It is important to observe, however, that this case was decided without proof or consideration of the economic factors which might have supported the plan. While the decision purported to rest upon protection of the public interest, no facts had been produced to show what the actual effect of such a plan upon the public welfare was.

Yet the Miles decision did not go so far as to condemn all contracts which act in restraint of trade. Indeed, it was expressly pointed out (406):

"To sustain the restraint, it must be found to be reasonable both with respect to the public and to the parties and that it is limited to what is fairly necessary, in the circumstances of the particular case, for the protection of the covenantee. Otherwise restraints of trade are void as against public policy,"¹⁰

Neither in this nor in succeeding cases has resale price maintenance been held illegal *per se*. So, for instance, in *Federal Trade Commission v. Beech-Nut Packing Co.* (257 U. S. 441), though the Court enjoined certain specified practices of the Beech-Nut Company, it at the same time declared that the order of the Commission forbidding any form of price maintenance was too broad. In *Cream of Wheat Co. v. Federal Trade Commission* (14 Fed. (2d) 40, 48 (C. C. A. 8)), the Court directed a proviso to the Commission's order to specify what the company might lawfully do to correct its resale price policy.

Wherever injunctions against resale price policies have been granted, they have been aimed at the methods which have been used to achieve the desired result, and the Court has not hesitated to approve resale price policies where the methods used were acceptable to it.

The result of the Miles decision was that producers began to cast about for new and legal methods of maintaining retail prices at the desired level. The first of these new methods which went before and was approved by the Supreme Court was that set forth in *U. S. v. Colgate & Co.*, 250 U. S. 300. The manufacturer gave notice to the retailer that the goods were not to be sold below a "suggested" retail price, and supplemented this notice by a policy of refusing to sell to retailers who did not adhere to the suggested price. The Supreme Court held that no contract for price maintenance had been made; that a trader or manufacturer had a right to exercise his discretion as to the parties with whom he would deal; and that he might announce in advance the circumstances under which he would refuse to sell.

This ruling has been followed in subsequent cases, such as *Harriet Hubbard Ayer v. Federal Trade Commission* (15 Fed. (2d) 274) and *Shakespeare v. Federal Trade Commission* (50 Fed. (2d) 758).

Another method which has been pronounced legal by the Supreme Court is that adopted by the General Electric Co., very fully set out and discussed in *United States v. General Electric Co.* (272 U. S. 476). This company appointed over 21,000 dealer "agents" throughout the country, to whom the goods were shipped on consignment, title to remain in the manufacturer until sale at a specified price. The Court held (488):

"The owner of an article, patented or otherwise, is not violating the common law, or the Antitrust law, by seeking to dispose of his article directly to the consumer and fixing the price by which his agents transfer the title from him directly to such consumer."

Thus there were two ways by which, with the full approval of the law and the courts, a producer could control the price at which his merchandise was sold to the

¹⁰ Citing and quoting *Gibbs v. Baltimore Gas Co.* (130 U. S. 409), and *Nordenfelt v. Mazim-Nordenfelt* 1904 (A. C. 565).

public. Yet many manufacturers who would have liked to achieve such results were either unwilling or financially unable to adopt either of these methods. The refusal-to-sell policy was a precarious one, because if it were carried out to the extent of affording real protection against price-cutters, the manufacturer might find that through the very willingness of his distributors to cooperate with him a combination had developed which was an illegal restraint of trade.¹¹ It may often be an ineffective policy because, despite the refusal of a producer or his regular distributors to sell to the price-cutter, the latter invariably, often deviously, manages to get the goods.

If the manufacturer wished to turn to the agency plan to control retail prices, he was faced with another, and in many instances an almost insuperable, difficulty. He had to deal directly with retailers under contracts which were necessarily involved if they were complete.¹² He had to set up and carry the financial burden of a whole private system of distribution. He could not avail himself of the existing established channels. The average manufacturer could not afford to set up a nation-wide system of his own, or to carry it on with the requisite investment of capital, the additional burden of records and checking up, and the continuous close contact with his dealers which must follow the adoption of such a system.

B. The states undertook to legalize minimum-price maintenance after other efforts to solve the problem of predatory price-cutting had been proved impracticable.

After the decision in the Dr. Miles case (164 Fed. 803, 806), efforts extending over many years were made in the Congress of the United States to secure legislative approval of a measure to legalize by statute resale price maintenance contracts. The Stephens bill and the Capper-Kelly bill were notable examples of this effort. The legislation in varying forms was before the Congress almost continuously from 1916 until 1930, but the Congress in effect said that the problem was one for the individual states to determine. With that in view, the first Fair Trade bill was introduced and passed in California in 1931. It was amended in 1933 by the addition of the now-famous Section 1½, which read as follows:

"Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of * * * this act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby."

The law in California gave great promise as an effectual means of reaching the evils of predatory price-cutting and loss-leader selling and the consequent injury to producers, distributors and the general public. The state of Oregon passed a similar act in 1933, and the states of New Jersey, Washington, Wisconsin, New York, Maryland, Pennsylvania, Iowa, and Illinois enacted similar laws in 1935. In 1936 Rhode Island, Virginia, Ohio and Louisiana joined the ranks of Fair Trade states.

In December, 1936, the Supreme Court of the United States, in a unanimous opinion delivered by Mr. Justice Sutherland, upheld the constitutionality of the Illinois and California acts which had previously received the stamp of approval of the highest courts of those states.¹³ In 1937 the following states adopted the legislation: Tennessee, Arizona, Montana, New Mexico, Kansas, Georgia, Nevada, Colorado, North Carolina, Minnesota, Kentucky, Nebraska, South Carolina, Wyoming, Idaho, Utah, West Virginia, South Dakota, Florida, Indiana, Arkansas, Connecticut, Maine, Oklahoma, New Hampshire, Massachusetts and Michigan. These were followed in 1938 by Mississippi, and in 1939 by Alabama.¹⁴ Only four states, Delaware, Missouri, Texas and Vermont, have failed to place the legislation on their statute books. In Texas and Delaware it has received the approval of the legislatures but has been vetoed by the Governors.

In addition to this phenomenal legislative approval, the record of Court decisions upholding the validity of Fair Trade laws has been no less impressive. The legislation has been upheld by the highest courts of the following states¹⁵: California, Oregon, New Jersey, Wisconsin, New York, Maryland, Pennsylvania, Iowa, Illinois, North Carolina, South Carolina, South Dakota, Connecticut and Michigan. In Florida the original law was declared unconstitutional because of a defect in the title, but the law was re-enacted at the next ensuing session of the legislature and has not again been contested.

¹¹ As in *Toledo Pipe-Threading Co. v. Federal Trade Commission* (11 Fed. (2d) 337).

¹² Consider the many ramifications of the contract in *General Electric case*, 272 U. S. 476.

¹³ 299 U. S. 183 (1936).

¹⁴ See Appendix for chronological list of state Fair Trade law enactment, pp. 18154-5.

¹⁵ See Appendix for chronological list of approving judicial decisions, pp. 18154-5.

It is of the utmost significance that no state Fair Trade law has ever been repealed, and it is of interest to note that many states since the original passage of the act have seen fit to add strengthening and clarifying amendments. In 1933 this was done by California; in 1935 by Oregon and Wisconsin; in 1937 by California, Oregon, New Jersey, Washington and Maryland; in 1938 by New Jersey, New York, Rhode Island and Virginia; in 1939 by South Dakota, Maine and Massachusetts; in 1940 by New York, Rhode Island and Virginia.

In the 75th and 76th Congresses bills to repeal the National Fair Trade Enabling Act were introduced in the House and Senate, but failed of consideration by the Committees to which they were referred. At the time of this writing repeal bills for the Enabling Act have not been introduced in the present Congress, and no bills to repeal Fair Trade laws have thus far been introduced in the state legislatures meeting in 1941.

C. The charge that the methods by which the Fair Trade statutes were enacted were improper, and that these measures were not considered adequately by the legislatures, is not supported by the facts.

The language hereafter italicized consists of quotations from Mr. Edwards' memorandum, and the statements following the italicized quotations are presented in refutation thereof.

(1) *"The passage of resale price legislation has become a classic example of the use of misrepresentation by a pressure group."*

The charge of misrepresentation is not in accordance with the facts. As has been stated previously, loss-leader selling and predatory price-cutting of trade-marked and branded articles of commerce has been a serious problem facing small business competitors for at least thirty years. Until 1911, the resale price maintenance contracts in the United States, now authorized by the forty-four state Fair Trade Acts, and made practical and effectual by the Miller-Tydings National Fair Trade Enabling Act, were not questioned as to legality. The *Dr. Miles* decision in 1911 (164 Fed. 803), in the absence of statute, denominated such contracts as unlawful restraints of trade. From that time until 1930, continuous efforts were made to secure Federal Legislative approval of such contracts. As a result of the failure of the national government to meet the evil of loss-leader selling and predatory price-cutting, small businessmen in retail distribution, through their lawful organizations, took their problem to the legislatures of their several states. In these legislatures the design of the proposed laws was made plain beyond the peradventure of a doubt, and that design was to provide a civil remedy through which manufacturers and distributors could prevent these unfair trade practices, which were growing more serious as time went on. As has been pointed out, California was the first state to recognize the evil and provide the remedy proposed. Following California, one by one the states adopted the same remedy with the result that a legislative record has been set in the length of time in which a legislative principle was almost universally adopted by the state legislatures with corresponding unanimous approval of the courts in the states where the law has been adjudicated, and by the United States Supreme Court itself. Section 1½ of the California act was added by amendment in 1933 to the act of 1931, when the original act had proven ineffective to meet the evils. The language was plain. The state legislatures generally were advised of the meaning of the section, and it was obvious to them, as it should be obvious to all, that the contractual remedy was of no value without the amendatory section.

To say that this section was secured in forty-four states by misrepresentation is to attack the ability and the intelligence of the members of the legislatures of forty-four states, of the legislator-sponsors, and of the Governors of the sovereign states who signed these measures.

Further, when the Tydings-Miller Act was before the Congress, the language and the effect of the state Fair Trade acts was made plain before the Judiciary Committees of the Senate and the House of Representatives. Reference to the hearings before those bodies will prove the point. It is almost facetious to charge that these committees, composed largely of able and experienced lawyers, could have been deceived as to the language, the meaning, and the effect of the state laws which the pending bill proposed to effectuate by the removal of the federal ban against resale price maintenance contracts in interstate commerce, the same contracts that were perfectly legal under these state acts in intrastate operation.

(2) *"The so-called 'fair trade' laws which legalized resale price legislation in the states were drafted and urged by lobbyists for organized retail druggists and were enacted with practically no support from any other source."*

If individual independent retailers working in and through their lawfully organized and lawfully operating trade associations to secure relief from unfair trade practices that were threatening to destroy their very existence, makes them lobbyists, they will be proud to bear that appellation. As the term is used in Mr. Edwards' memorandum, the implication is that the lobbyists were professional operators employed by organized retailers; but the fact is that in all cases the active proponents of the state Fair Trade laws in the various legislatures were individual retailers and officers of their trade associations who, in the majority of cases, were individual retailers in their own right. In their activity in behalf of these laws they did no more than exercise their right of petition guaranteed by the Constitution. Such activity has not yet become a crime or a misdemeanor or even a discreditable practice in any sense under our system of government.

As to the charge that there was little or no support from other groups than retail druggists, again the facts are at variance with Mr. Edwards' statement. Reference to the numerous affidavits filed with this brief and digested in Appendix C hereof, covering the legislative history of Fair Trade in the various states, will disclose that many other groups were active as proponents of the legislation. Organizations of retail grocers, retail hardware dealers, retail book dealers, retail jewelers, retail automotive supply dealers, retail gasoline dealers, and other organized groups and individuals in these categories were active supporters of this legislation.

(3) *"A systematic effort was made to prevent public hearings and to secure the enactment of the bill without public debate. This effort was successful. There was a public hearing on the bill in only three states out of the first thirty-two in which it was passed, and in one of these the hearing followed the passage."*

This statement is denied in its entirety. It is a serious misstatement of fact, and the evidence to disprove it is voluminous. Reference to the aforementioned affidavits and statements will amply refute it. The first 32 states to pass the Fair Trade act, listed in chronological order of passage, were:

California	Virginia	North Carolina
Oregon	Ohio	Minnesota
New Jersey	Louisiana	Kentucky
Washington	Tennessee	Nebraska
Wisconsin	Arizona	South Carolina
New York	Montana	Wyoming
Maryland	New Mexico	Idaho
Pennsylvania	Kansas	Utah
Iowa	Georgia	West Virginia
Illinois	Nevada	South Dakota
Rhode Island	Colorado	

It will be seen from sworn statements abstracted in Appendix C that public hearings were held in the following, among the first 32 states to enact Fair Trade statutes:

California	Kansas	Utah
Oregon	Georgia	West Virginia
Washington	Colorado	South Dakota
Wisconsin	North Carolina	Nebraska
Virginia	Minnesota	Maryland
Ohio	Wyoming	New York

In some of these states public hearings were held in both branches of the legislature. In New York and Maryland, public hearings were also held after the passage of the act by the legislatures, by the Governors of those states, where full opportunity was accorded to all interested parties to appear and state their approval or objections to the measure.

While the time allowed in which to prepare this brief is not sufficient to collect full information on the facts in each one of the first thirty-two states approving this law, ample evidence is here adduced to prove the statement false, and it is our belief that in the balance of the first thirty-two states approving the legislation, public hearings were also held.

In Appendix C will also be found abstracts of sworn statements proving that the following additional states held public hearings during the pendency of their Fair Trade acts:

Florida	Maine	Michigan
Connecticut	Oklahoma	Mississippi
North Dakota	Massachusetts	Alabama

(4) *"Meanwhile, every effort was made to throttle public discussion and to intimidate business opposition."*

This statement is also denied in its entirety, and again attention is called to the fact that Mr. Edwards produced no evidence with which to substantiate it.

If time permitted and it were possible to bring all of the facts within the confines of this brief, it would be shown beyond a doubt that the public press in every state, during the pendency of the Fair Trade acts, carried ample publicity in regard to the legislation. It is also a fact that in the main, the newspapers of the country opposed the legislation, no doubt for reasons sufficient into themselves. In addition, the opponents of the measure, particularly large department store interests, flooded women's clubs, citizens' and taxpayers' organizations, and groups of all kinds with voluminous propaganda attacking the legislation from every conceivable angle.

We submit that under our traditions of free speech and free press, it is an absolute impossibility to throttle public discussion on any issue of interest to the people; and indeed, the history of this country shows that individuals and groups who have attempted to throttle public discussion on any issue have failed miserably.

The charge is made that efforts were made to intimidate business men who opposed these laws, and again no evidence is presented by Mr. Edwards to support this charge. Only the government and huge combinations of capital are capable of intimidating business men in their opposition to any proposal. The fact that the Fair Trade laws were conceived and born in the minds of small business men makes the charge of business intimidation unworthy of serious notice.

(5) *"The state laws give to a manufacturer and a retailer the right to coerce the retailer's competitors by fixing the resale price of these competitors against their will."*

This charge is not only a misstatement of fact, but it is a misstatement of law as we shall show later on.

In the Fair Trade acts, loss-leader selling of goods covered by Fair Trade contracts sanctioned by state Fair Trade acts, is denominated as unfair trade practice by the state legislative bodies. Instead of a criminal penalty for non-observance of Fair Trade contract prices, the law provides only for a civil suit to enjoin the unfair trade practice of loss-leader selling and predatory price-cutting. The remedy of civil action for damages and injunction is provided to protect the contract rights of the producer and distributor who are parties to minimum resale price contracts. Contract rights have always been sacred under the American system and the provision for and the utilization of lawful remedies against those who would destroy those rights cannot in reason be denominated as coercion. The prevention of a tortious act resulting in damage by means provided in a statute, is not coercion.

Another misstatement of fact in this sentence is in the use of the term "fixing the resale price of these competitors against their will." The state Fair Trade acts provide only for minimum resale prices, constituting a "floor" below which the predatory price-cutter and loss-leader seller may not go. The fallacy of the charge that this legislation is price-fixing is disproved in another part of this brief.

II. *The state Fair Trade laws, including the so-called "non-signer clause" thereof, are in harmony with the common law and constitute no departure from well established legal principles.*

A. Mr. Edwards says in his memorandum accompanying the Assistant Attorney-General's brief:

"The state (Fair Trade) laws were described as though they consisted merely in grants of authority for manufacturer and retailer to agree upon the resale price of branded goods. Actually, there is not a one of the state statutes which is limited to such a grant. A statute of that kind was tried in California and proved to be a miserable failure because many retailers would not sign such contracts. All of the state laws now provide that when a manufacturer and a retailer sign a resale price contract all other retailers who have notice of the contract price must refrain from selling below that price. In other words, these state laws give to a manufacturer and a retailer the right to coerce the retailer's competitors by fixing the resale price of these competitors against their will.

* * * * *

"The Senate reports and the very text of the amendment demonstrate that those who amended the Sherman Act had been misinformed about the status of non-signers under the state laws. The amendment explicitly prohibits agreements between retailers to fix minimum resale prices. Yet in practical effect

such agreements would not be as severe a restraint upon competition as a grant of power to a single retailer to make an agreement with a manufacturer which then becomes binding upon all other retailers.

* * *

"If this committee had been informed that the state laws require every retailer to maintain the same price upon a commodity covered by a contract, it could not in candor have described these laws as merely permissive nor have emphasized the point that horizontal agreements among retailers were not authorized."

The section of the Fair Trade Acts which Mr. Edwards condemns and which, significantly, he fails to quote, reads as follows:

"Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pursuant to the provisions of * * * this act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby."

It may be doubted if Mr. Edwards has taken the trouble to read this section; certainly he is either unwilling or unable to understand it. It is implied that the rule of law here announced is new and unusual. The fact is that for centuries it has been a principle of the common law that knowingly and wilfully to do an act which results in damage is actionable at the suit of the person injured (*Keeble v. Hickeringill* (1688-1710) 11 Modern 74, 3 Salkeld 9; *Carrington v. Taylor* (1809) 11 East 571, *Tarlton v. M'Gawley* (1793) Peake 205). This is also the modern law. See *American Law Institute's Restatement of Torts*, par. 766.

When the language of this section is analyzed, it is clear that it is no more than an accurate restatement of the universally accepted rule of law that a malicious act resulting in damage is civilly actionable. It provides: (a) Wilfully and knowingly, (i. e., maliciously), (b) advertising, offering for sale or selling, (c) any commodity (i. e., an article bearing the trade-mark, brand, or name of the producer and which is in fair and open competition with other commodities of the same general class produced by others), (d) at less than the price stipulated in any contract under the Act (i. e., at less than established prices), (e) by anyone, a party to such contract or not, (f) is unfair competition, (g) and is actionable at the suit of any person damaged thereby.

That is to say, that anyone suffering legal damage from malicious price cutting may sue. This has nothing to do with price-fixing. It defines injurious price-cutting, when done maliciously, as actionable unfair competition.

B. This section simply describes certain injurious acts as "unfair competition."

In order to see this section in proper perspective in this aspect of the discussion, it is desirable briefly to trace the history of the idea of unfair competition from the first use of the phrase.

Long ago the question of unfair competition arose in connection with the unauthorized use of trade marks. The injury resulting from the imitation of a trader's identifying mark was the sale of a competitor's goods as those of the original user, thereby interfering with his trade expectancy or good will by depriving him of customers by misrepresentation. The notion of property in trade marks was thus developed and for a while it served well enough, but it was very soon perceived that a trader's customers might be diverted by the imitation of elements which were not trade marks and in which property rights could not be maintained, such as simulation of packages, the misuse of personal names, descriptive words, and the like. The result was the same misrepresentation and the same interference with trade expectancy. At first the courts had difficulty in adjusting themselves to the situation. Law writers did not know where to classify these cases. Digest compilers put them under an added paragraph heading "Cases analogous to trade mark cases." A chapter similarly entitled was tacked on to text-books. Mr. Browne in the first edition of his book on Trade Marks (Boston, Little, Brown & Co., 1873) had a chapter (XII) "Rights analogous to those of Trade Marks." The phrase unfair competition was not used. In the second edition (1885) the same chapter heading is used but the phrase "unfair competition" appears in the index, and in Section 43 it is said:

"*Unfair competition in Business.*—In examining cases classified in digests and books of reports as those of trade-marks, the reader is sometimes puzzled. In the absence of the slightest evidence that technical trade-marks have been infringed, courts of equity have granted full and complete redress for an improper use of labels, wrappers, bill-heads, signs, or other things that are essentially *publici juris*. The difficulty is, that wrong names are used. French-speaking nations have a standard name for this kind of wrong. The term used is *concurrence deloyale*

This term may fairly be Anglicized as a dishonest, treacherous, perfidious rivalry in trade. In the German Imperial Court of Colmar, in 1873, the court said that current jurisprudence understands by *concurrence déloyale* all manoeuvres that cause prejudice to the name of a property, to the renown of a merchandise, or in lessening the custom due to rivals in business. The euphemism employed as a head to this section will answer the present purpose."

The phrase unfair competition soon became applied exclusively to cases involving passing off, and the law itself was in danger of being crystallized by the supposed limitations of the term. Happily, unfair competition soon became applied to conduct which did not involve passing off and was extended to include misappropriation as well as misrepresentation,¹⁶ and in general to conduct which artificially and injuriously interferes with the normal course of trade. (*International News Service v. Associated Press*, 248 U. S. 215, 240.) Thus disparagement,¹⁷ molestation,¹⁸ inducing breach of contract,¹⁹ commercial bribery,²⁰ misleading advertising,²⁰ false trade descriptions,²⁰ misrepresentation of business status,²¹ use of lotteries as a sales stimulant,²² all illustrate only a few instances which show how the phrase unfair competition or unfair methods of competition has expanded from its small beginnings to its present scope.²³ Indeed the French, to whom we owe the phrase unfair competition, recognize, injurious price cutting as a variety of it;²⁴ and the Supreme Court has spoken of "unfair methods of competition such as local price cutting."²⁵

The applicability of this development to the present discussion is, we think, obvious. The section of the Fair Trade acts here under discussion in reality has nothing to do with *price fixing*. It makes actionable, injurious *price cutting*. In this case it is the price-cutting dealer who fixes the price of the trade-marked goods in the market in which he operates, because with respect to indented merchandise, the lowest price is the market price. Thus it is the price cutter who is claiming the right to fix the price at which trade-marked goods shall be sold in his community.

Mr. Justice Pitney said in *International News Service v. Associated Press*, 248 U. S. 215, 236:

"Obviously, the question of what is unfair competition in business must be determined with particular reference to the character and circumstances of the business. The question here is not so much the rights of either party as against the public but their rights as between themselves."

C. Price cutting as a variety of unfair competition is probably actionable at common law.²⁶ Certainly a state can make it so by statute.

By such statutes as this, the state merely opens its courts to the injured party by giving him an opportunity to recover such damages as he can prove that he suffered from an injurious act. No penalty is provided; nothing is forbidden; a civil suit is authorized, no more.

No one is deprived of a right merely because he is made liable to a civil suit to redress wrongs he may commit. It has been held repeatedly that states without depriving anyone of his constitutional rights, may create a civil liability where none existed before, take away defenses, and in general may determine for themselves what shall be actionable.

In *St. Louis and S. F. Railway v. Matthews*, 165 U. S. 1, 27, the court said:

"The statute is not a penal one, imposing punishment for a violation of law; but it is purely remedial, making the party, doing a lawful act for its own profit,

¹⁶ *International News Service v. Associated Press*, 248 U. S. 215, 241, 242; *Schechter v. United States*, 295 U. S. 495, 532.

¹⁷ Smith, Disparagement of Property, 1913, 13 Col. Law Rev. 13; Pound, Equitable Relief Against Defamation, 1916, 29 Harvard Law Review, 649, 968.

¹⁸ *Evenson v. Spaulding*, 150 Fed. 517.

¹⁹ Sayre, Inducing Breach of Contract 1923, 36 Harvard Law Review 663; Carpenter, Interference with Contract Relations, 41 Harvard Law Review 728.

²⁰ *Federal Trade Commission v. Winsted Hosiery Co.*, 258 U. S. 483; *Federal Trade Commission v. Algoma Lumber Co.*, 291 U. S. 67.

²¹ *Federal Trade Commission v. Royal Milling Co.*, 288 U. S. 212.

²² *Federal Trade Commission v. Koppel & Bro.*, 291 U. S. 304.

²³ See article "Unfair Competition" by Milton Handler, 21 Iowa Law Review 175, January, 1936.

²⁴ See Pouillet, *Traité des Marques de Fabrique*, Par. 1221.

²⁵ "No doubt that on principle, and in the absence of an agreement to the contrary, a retailer has the right to sell at a price that suits him, even at a loss, articles which he buys for his trade. That is one of the evident consequences of the principle of freedom of trade. Nevertheless, the rule is far from being without exceptions. Sale at a cut price may take place under such conditions, with so evident an intention to depreciate the merchandise, that it becomes an act of unfair competition."

²⁶ *Standard Oil Co. v. U. S.*, 221 U. S. 1, 43.

²⁷ *Tuttle v. Buck*, 107 Minn. 165, 119 N. W. 346; *Boggs v. Duncan Shell Furniture Co.*, 163 Iowa 106, 143 N. W. 483; *Dunshew v. Standard Oil Co.*, 152 Iowa 618, aff'd, 165 Iowa 625, 132 N. W. 371.

liable in damages to the innocent party injured thereby, and giving to that party the whole damages, measured by the injury suffered."

In *Chicago and Alton Railroad Co. v. Tranbarger*, 238 U. S. 67, 76, which involved a Missouri statute compelling surface water outlets, Mr. Justice Pitney said:

"The previous immunity from responsibility for such injury was nothing more than a general rule of law, which was not in terms or by necessary intentment imported into the contract. For just as no person has a vested right in any general rule of law or policy or legislation entitling him to insist that it shall remain unchanged for his benefit * * * so an immunity from a change of the general rules of law will not ordinarily be implied as an unexpressed term of an express contract * * *."

"But a more satisfactory answer to the argument under the contract clause, and one which at the same time refutes the contention of plaintiff in error under the due process clause, is that the statute in question was passed under the police power of the State for the general benefit of the community at large and for the purpose of preventing unnecessary and wide-spread injury to property."

In *George v. Board of Revenue*, 207 Ala. 227, 92 South. 269, before the enactment of the statute in issue, the common law required that stock be "fenced out, not in." (*Clear Creek Lumber Co. v. Gossom*, 151 Ala. 450, 44 South. 404.) The stock law later required owners of cattle to fence them in or be liable for damages they caused. The Court in this case said:

"The decisions are to the effect that, should he exercise the right and permit his cattle to run at large, he nevertheless subjects himself to liability should they wander into a stock law district and commit depredations upon property of residents of such district."

Statutes making the seller of liquor liable civilly for all damages done by the purchaser are valid. In *Bertholf v. O'Reilly*, 74 N. Y. 509, 513, the Court said:

"The question we are now to determine is whether the legislature has the power to create a cause of action for damages, in favor of a person injured in person or property by the act of an intoxicated person * * *."

This opinion contains a full and valuable discussion of police power and concludes that the legislation in question is but an extension by the legislature of the principle expressed in the maxim "*sic utere tuo*, etc." to cases to which it had not before been applied and that "the propriety of such an application is a legislative and not a judicial question." A similar case is *Eiger v. Garrity*, 246 U. S. 97.

A statute making one who excavates more than twelve feet, liable for damages to adjoining property, is constitutional. *Tillson v. Consumers' Power Co.*, 269 Mich. 53, 256 N. W. 801.

In *Kimmish v. Ball*, 129 U. S. 217, 222, the court said:

"The case is, therefore, reduced to this, whether the State may not provide that whoever permits diseased cattle in his possession to run at large within its limits shall be liable for any damages caused by the spread of the disease occasioned thereby; and upon that we do not entertain the slightest doubt."

In *M. K. T. Railroad Co. v. Haber*, 169 U. S. 613, 625, there was under consideration a Kansas statute giving a right of action for damages caused anyone by another's transportation of diseased animals. This court upheld the statute saying:

"It did nothing more than declare as a rule of civil liability in Kansas, that anyone driving, shipping or transporting * * * cattle liable to impart (disease) * * * should be responsible in damages to any persons injured thereby."

There is no doubt that the legislature of a state may create causes of action and the right to recover damages for acts which theretofore were not actionable. This statement is such a truism that to cite examples of bulk sales laws, automobile speed limits, death actions, and the like, seems superfluous. Indeed, the legislature may and often does subject persons to liability without fault. A few examples are workmen's compensation laws, *New York Central Railroad v. White*, 243 U. S. 188; the liability of railroads for fires caused by locomotives and for injuries to passengers, *Chicago Railroad Co. v. Zerneke*, 183 U. S. 582; of the driver of animals for injury to the highway, *Jones v. Brim*, 165 U. S. 180; of damage to municipalities done by mobs, *Chicago v. Sturges*, 222 U. S. 313;²⁷ of the owner of an automobile for injury caused by the automobile when driven by a third person.

The question is whether, under the economic situation existing in the several states which have Fair Trade laws, the states have a right, with respect to trans-

²⁷ See Note on mob liability statutes 13 A. L. R. 754. See also 12 C. J. 1241 et seq. under heading "creation and enlargement of liability." See an article by Elmer Smead in 21 Cornell Quarterly 276 on "*sic utere tuo*, etc." as a basis of state police power. Many cases of statutory liability—absolute and regardless of fault are collected in a Note 53 A. L. R. 875.

actions entirely within their borders, to define acts which are unfair in fact to be unfair competition in law and to give access to their local courts to persons who may be damaged by them.

In *Liberty Warehouse Co. v. Burley Tobacco Growers' Co-operative Marketing Association*, 276 U. S. 71, the Bingham Act of the Kentucky legislature penalized anyone who knowingly induced a member of a co-operative marketing association to violate his contracts. It was argued that this provision was unconstitutional. Mr. Justice Reynolds said (91):

"Counsel maintain that the Bingham Act takes from the Warehouse Company the right to carry on business in the usual way by accepting and selling the tobacco of those who voluntarily seek its services and thus unduly abridges its liberty. Undoubtedly the statute does prohibit and penalize action not theretofore so restricted and to that extent interferes with freedom. But this is done to protect certain contracts which the legislature deemed of great importance to the public and peculiarly subject to invasion. We need not determine whether the liberty protected by the Constitution includes the right to induce a breach of contract between others for the aggrandizement of the intermeddler to violate the nice sense of right which honorable traders ought to observe."

D. This section does no more than to make a wilful act civilly actionable by a person injured thereby.

As the Supreme Court of California suggested, this section is not solely a price-regulating statute. The Court observed:

"The statute, in other words, does not merely prohibit price-cutting in order to regulate prices, but prohibits price-cutting in an attempt to protect the validly acquired rights of others."

Analysis of the language will show the correctness of the court's conclusion.

"Wilfully and knowingly" is a term well understood. These words have been defined to mean, for a bad purpose, without justifiable excuse. (*Potter v. United States*, 155 U. S. 438, 446; *Spurr v. United States*, 174 U. S. 728, 734; *Fellon v. United States*, 96 U. S. 699, 702).

The language "* * * at less than the price stipulated in any contract entered into pursuant to the provisions of section 1 of this act" may be paraphrased: "* * * at less than established prices" or "in violation of a lawful contract." Whether a person "is or is not a party to such contract" seems to be the language objected to.

A party to a contract, of course, is liable if he breaks it. No question is raised except as to the liability of one who is not a party. The vice is asserted to result from the two words "is not" and it is claimed that these bind a man to observe a contract he did not make and, thus, interferes with his right of free bargaining or making any contract he pleases.²³

But the definition of a non-contracting party's liability is plain enough when the language of the acts is considered in its legal meaning. He is a person who, knowing of a lawful contract, purposely interferes with its operation. This the act calls "unfair competition" which is an epithet to characterize the preceding language (*Hurn v. Oursler*, 289 U. S. 238, 246). "Unfair competition is made 'actionable at the suit of any person damaged thereby.' 'Actionable' means ground for legal proceedings. 'Damage' means 'the compensation which the law will award for any injury done.' (*Scott v. Donald*, 165 U. S. 58, 86.) Hence, 'person damaged' means one hurt by a legal injury.

Therefore, to paraphrase the section, it would read:

"To advertise, offer for sale or sell any commodity identified by a trade-mark, brand or name at less than the established price therefor when done for a bad purpose and without justifiable excuse is ground for a civil suit in the courts of this state by any person who can show that he has suffered legal injury therefrom."

The question in this aspect resolves itself thus, and we should suppose that no one would seriously dispute the validity of such an act. It will be observed that

²³ In *Chicago, Burlington and Quincy Railroad Company v. McGuire*, 219 U. S. 549, Mr. Justice Hughes said (564):

"The first ground of attack is that the statute violates the Fourteenth Amendment by reason of the restraint it lays upon liberty of contract. This section of the Code of Iowa (Sec. 2071), as originally enacted, imposed liability upon railroad corporations for injuries to employees, although caused by the negligence or mismanagement of fellow-servants. And it was held by this court that it was clearly within the competency of the legislature to prescribe this measure of responsibility. *Minneapolis & St. Louis Railway Co. v. Herrick*, 127 U. S. 210, following *Missouri Railway Co. v. Mack*, *127 U. S. 205.*"

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"But it was recognized in the cases cited, as in many others, that freedom of contract is a qualified and not an absolute right. There is no absolute freedom to do as one wills or to contract as one chooses."

See also *Frisbie v. United States*, 157 U. S. 160, 165, 166.

nothing is prohibited. There is no penalty. There is no criminal liability. The act here assailed does no more than define a civil liability and provides that suit may be brought to recover, if one can show a legal injury, for acts which many courts, on common law principles, have long regarded as wrongful. The defendant is not deprived of any defense.²³ As the Supreme Court said in the *Arizona Employers' Liability Cases*, 250 U. S. 400, 426:

"And it amounts to a contradiction of terms to say that in submitting a controversy between litigants to the established courts, there to be tried according to long-established modes and with a constitutional jury to determine the issues of fact and assess compensatory damages, there is a denial of 'due process of law.'"

Moreover, it is significant that the normal, and perhaps the only practical, remedy available for the enforcement of a Fair Trade act is injunctive relief. This being an equitable remedy, a court of equity is vested with the broad and discretionary powers which characterize equity jurisdiction. The court, thus, is always at liberty to deny relief where particular circumstances make it inequitable to grant it.

E. Common Law Analogies.

(1) This section is an application of principles to those which underlie the doctrine of equitable servitudes.

Independently of any statute, the imposing of restrictions upon property by contract between buyer and seller, binding upon subsequent, non-contracting purchasers, is not a concept new to the law. For many years, courts of equity have been enforcing, against non-contracting parties, covenants made with respect to real property. (*Tulk v. Moxhay*, 2 Ph. 774 (1848).)

Other early English decisions suggest that the courts were conscious of the possibility of extending the doctrine to chattels. Thus, in *De Mattos v. Gibson*, 2 Ph. 774 (1848), holding that the charterer of a ship might specifically enforce his rights against a mortgagee who had notice of the charter, Lord Justice Knight Bruce observed:

"Reason and justice seem to prescribe that, at least, as a general rule, where a man, by gift or purchase, acquires property from another, with knowledge of a previous contract, lawfully and for valuable consideration made by him with a third person, to use and employ the property for a particular purpose in a specified manner, the acquirer shall not, to the material damage of the third person, in opposition to the contract and inconsistently with it, use and employ the property in a manner not allowable to the giver or seller. This rule, applicable alike in general as I conceive to movable and immovable property, and recognized and adopted, as I apprehend, by the English law, may, like other general rules, be liable to exceptions arising from special circumstances; but I see at present no room for any exception in the instance before us."²⁴

The situation in this case is very close to the one which came before the Supreme Court in *Bourjois v. Katzel*, 260 U. S. 689. There plaintiff was the assignee for the United States of the good will and trade-marks of a French manufacturer of face powder and with slight modifications was using the marks and labels thus acquired in the United States, applying them to goods made in France and packed there. The defendant purchased goods of the original French manufacturer under the original trade-mark, which it was conceded, the original manufacturer had retained for France. Defendant sold the original in this country in competition with the plaintiff. Plaintiff sought an injunction. Defendant argued that the goods she was selling were the genuine goods, lawfully acquired and that there was nothing unlawful in what she was doing.

Mr. Justice Holmes said (691):

"If for the purpose of evading the effect of the transfer, it (the French manufacturer) had arranged with the defendant that she should sell with the old label, we suppose that no one would doubt that the contrivance must fail. There is no such conspiracy here, but, apart from the opening of a door to one, the vendors could not convey their goods free from the restriction to which the vendors were subject. Ownership of the goods does not carry the right to sell them with a

²³ *Hygrade Provision Co. v. Sherman*, 266 U. S. 497, 501. *Omachevarria v. Idaho*, 246 U. S. 343, 348.

²⁴ In *Werdnman v. Societe Generale d'Electricite*, 19 Ch. D. 246, 252 (1881), holding that the grantor of a patent was entitled to an accounting against the grantees' assignee, where the latter knew the terms of the grant, Sir George Jessel remarked:

"The parties intended certain liabilities to attach to the patent itself * * * It is quite plain that nobody could take the patent with notice of that arrangement, and say we will keep all the profits and will not be liable to account * * * It is a part of the bargain that the patent shall be worked in a particular way and the profits disposed of in a particular way, and no one taking with notice of that bargain can avoid the liability."

specific mark. It does not necessarily carry the right to sell them at all in a given place."

This approach to the question finds additional support in *Bitterman v. Louisville and Nashville Railroad Company*, 207 U. S. 205, which held that the non-transferability and forfeiture clauses in a railroad ticket are binding not only upon the original purchaser but also upon any person who may acquire the ticket. Mr. Justice White said (221):

"That the complainant had the lawful right to sell non-transferable tickets of the character alleged in the bill at reduced rates we think is not open to controversy, and that the condition of non-transferability and forfeiture embodied in such tickets was not only binding upon the original purchaser but upon anyone who acquired such a ticket and attempted to use the same in violation of its terms is also settled. *Mosher v. Railroad Co.*, 127 U. S. 390. See also, *Boylan v. Hot Springs Co.*, 132 U. S. 146.

* * * * *

"Any third person acquiring a non-transferable reduced rate railroad ticket from the original purchaser, being therefore bound by the clause forbidding transfer, and the ticket in the hands of all such persons being subject to forfeiture on an attempt being made to use the same for passage, it may well be questioned whether the purchaser of such ticket acquired anything more than a limited and qualified ownership thereof, and whether the carrier did not, for the purpose of enforcing the forfeiture, retain a subordinate interest in the ticket amounting to a right of property therein, which a court of equity would protect. *Board of Trade v. Christie Grain & Stock Co.*, 198 U. S. 236, and authorities there cited. See also, *Sperry & Hutchinson Co. v. Mechanics' Clothing Co.*, 128 Fed. Rep. 800."

The power of courts of equity to impose equitable servitudes on chattels is examined at some length in an able article by Professor Zechariah Chafee, Jr., published in Volume XLII, *Harvard Law Review*, page 945 (June, 1928) entitled "Equitable Servitudes on Chattels." Professor Chafee points out that restraints on the alienation of land, binding upon sub-purchasers, are common, and that similar restraints as to chattels are not entirely without precedent but, on the contrary, are quite within the powers of courts of equity, should practical considerations require their assertion. He concludes:

"On general principles equitable servitudes on chattels seem a reasonable and flexible device, which the courts might use when desirable." (p. 1007.)

It is significant that Professor Chafee is discussing equitable servitudes on chattels as creatures of courts of equity, unassisted by statutes. He considers the problem from the historical standpoint, and believes that courts of equity have the necessary power if they choose to use it. *A fortiori*, statutes may prescribe its use.

Courts of equity may have hesitated to enforce similar restrictions upon the alienation of personal property. But a legislature is not precluded from determining that, as to a certain class of personal property, conditions create an economic reason for permitting such restrictions. Where a legislature does so, it would seem the assertion that such statute is unprecedented ignores completely the historical antecedents and common law analogies for such a remedy.

Mr. Edwards looks upon the idea of compelling respect for the terms of a contract made by other parties as something wholly new. Yet that is exactly what is done every time a court of equity enforces an equitable servitude against a sub-vendee of property.

Many decisions uphold statutes which restrict the right to contract and the right of free alienation, even though such statutes were not in line with the historic antecedents and common law analogies pointed out by Professor Chafee. The statutes in such cases for that reason went far beyond the Fair Trade acts for they introduced entirely new social experiments and were often diametrically opposed to the prior common law.

(2) The doctrine of tortious interference with contract relations provides a further common law analogy.

The common law has dealt with various phases of the problem of protecting contractual relationships against breaches and interference caused by the otherwise legal acts of third persons. *Lumley v. Gye*, 2 El. & Bl. 216 (1853), led the way for the establishment in nearly all common law jurisdictions, of the principle that the law will not permit a person wilfully to induce another to breach a contract. The leading cases on the subject are collected in: Carpenter, *Interference with Contract Relations*, 41 *Harvard Law Review* 728 (1928), and Sayre, *Inducing Breach of Contract*, 36 *Harvard Law Review* 663 (1923). In *Angle v. Chicago*,

St. Paul, Minneapolis and Omaha Railway Company, 151 U. S. 1, the Supreme Court applied and approved the common law doctrine.

The California Supreme Court recognized, in passing upon Section 1½ of the California Fair Trade Act, this common law analogy, saying:

"The common law, without statutory authorization, long recognized that unjustifiable interference with contract rights of others constituted a tort. * * * The statute here involved, in a large measure, merely extends that common law doctrine to the transactions enumerated in the statute."

III. *The right of the states to govern their internal affairs, including their intrastate commerce, without interference from the Federal government, is inherent in our constitutional system.*

A. Fair Trade contracts, inasmuch as they establish minimum prices on goods to be sold at retail within a state, are contracts in intrastate commerce and therefore are not properly within the jurisdiction of the Federal government.

We are not offering this thesis as a statement of law, but we submit it as a principle which is consonant with basic constitutional theory; and we believe that it expresses the position the Congress should take in the formulation of national policy. Unfortunately, the simple statement in the Constitution relative to interstate commerce has been tortured beyond its original meaning; but the undue extension of Federal power in the past does not bind the Congress in the determination of present and future policy.

Attempts to bring intrastate commerce which may affect interstate commerce, even remotely, under the control of the Federal government has injected doubt and uncertainty into the law and has created a no-man's-land in which the courts themselves find difficulty in determining where the boundaries lie. Indeed, the formulas for establishing those boundaries for different purposes are often inconsistent with each other; the courts having found it necessary to stretch the rule adopted in some cases, in order to arrive at decisions which shall be just in cases presenting a different set of facts.

The Congress, in passing the Tydings-Miller Act, recognized that the assumption by the Federal government of authority to control intrastate commerce in Fair Traded goods when the parties to the Fair Trade contracts happened to reside in different states, constituted an improper interference with intrastate commerce. It cut through the labyrinth of administrative acts and judicial decisions in which, through the years, the interstate commerce clause had been distorted; and rendered inoperative a strained definition of interstate commerce in cases involving the lawful establishment of minimum prices under state statutes. Your committee is now asked to recommend to Congress that it reverse its present wise policy of non-interference with contracts dealing with intrastate transactions.

B. Our contention that Fair Trade contracts are in fact intrastate even though the parties thereto reside in different states, rests on the fact that such contracts deal exclusively with prices to be charged for goods in retail sales, after they have come to rest within the state.

The residence of the parties should not in itself determine whether a contract is in interstate commerce; the situs of the subject matter should be more controlling. When, for instance, an Illinois manufacturer ships goods into Minnesota to a Minnesota merchant, the sale of the goods crossing state boundaries is interstate commerce; but the resale of the goods after they have come to rest in Minnesota, by the Minnesota merchant to his Minnesota customers, is an intrastate transaction; and a contract between the Illinois manufacturer and the Minnesota merchant relative to the terms on which the goods shall be sold at retail in Minnesota, is a contract relating to intrastate commerce and as such should not be subject to Federal interference.

It is not our contention that the above paragraph sets forth the distinction between interstate and intrastate commerce made by the courts and followed by the administrative departments of the government. It is offered as a statement of the distinction which properly can be made in the determination of legislative policy, and as a statement of what the Congress intended the law to be when it enacted the Fair Trade Enabling Act, insofar as transactions in Fair Trade merchandise are concerned; and it cannot be said that the Congress was not acting within its proper discretion when it chose to modify the effect given to its previous enactments (the Sherman Act and amendatory and supplementary laws) by judicial interpretation and administrative policy. The Congress merely withdrew from a field of regulation into which it had been projected, and relinquished that field to the states.

C. The courts themselves have recently indicated a determination to limit Federal interference with intrastate commerce.

In the case of *Federal Trade Commission v. Bunte Brothers, Inc.*, in a decision rendered on February 17, 1941, the Supreme Court of the United States rejected the Commission's plea that it may "proscribe unfair methods used in intrastate commerce when these result in a handicap to interstate competitors," and held that "there is the widest difference in practical operation between the control over local traffic intimately connected with interstate traffic and the regulatory authority here asserted."

In this case Bunte Brothers, candy manufacturers in Illinois, sold chance assortments of candy, confining its sales thereof to intrastate transactions. The Commission claimed that the sales nevertheless *affected* interstate commerce because it hurt the business of out-of-state competitors who could not lawfully ship similar assortments into the state. The Court said: "The construction * * * urged by the Commission would give a Federal agency pervasive control over myriads of local businesses in matters heretofore traditionally left to local custom or local law * * * to read 'unfair methods of competition in (interstate) commerce' as though it meant 'unfair methods of competition in any way affecting interstate commerce' requires, in view of all the relative considerations, much clearer manifestation of intention than Congress has furnished."

D. Repeal of the Tydings-Miller law would have the effect of re-establishing a state trade-barrier which that law removed.

A reading of *Madison's Journal* and *The Federalist* shows clearly that the purpose of writing the interstate commerce clause into the Constitution was to prevent the states from erecting barriers against each others' commerce. There is no intimation of intention that the Congress should regulate intrastate trade, but that it should have the power to insure the free flow of goods among the states.

A repeal of the Fair Trade Enabling Act would defeat that purpose by impeding the flow, into any Fair Trade state, of branded merchandise made outside that state. It would result in discrimination against outside manufacturers and in favor of manufacturers within the state, for the reason that the former would be denied the privilege accorded to the latter by the state Fair Trade law, of obtaining retailer acceptance for their products by protecting them against predatory price-cutting.

A vast majority of retail distributors would put their sales emphasis on goods made within the state, and little or no sales effort behind unprotected goods made outside. The result would be that there would be created a powerful trade barrier against the outside manufacturer. The Congress removed such a barrier when it passed the Tydings-Miller law, and the repeal thereof would restore it and would thereby have a result contrary to the purpose of the framers of the Constitution.

E. Repeal of the Tydings-Miller law would give advantage to large manufacturers over small manufacturers selling in interstate commerce, and would tend to give large manufacturers a monopoly in the business of making and selling nationally branded goods.

The larger manufacturers operating in interstate commerce would not be greatly affected by repeal, for they have the means to establish corporate subsidiaries in the different Fair Trade states and thereby avoid the ban against Fair Trade agreements in interstate commerce which the opponents of the Fair Trade Enabling Act seek. Small manufacturers, on the other hand, would find it too expensive and burdensome to establish such subsidiaries, and therefore would be compelled to restrict price-maintenance of their products to the state in which they carried on their manufacturing operations. The result would be to tend to drive them out of interstate commerce and to force them to restrict their distribution to their own states, thereby, surrendering much of their business to their far-flung competitors. Such a result would defeat the very purpose for which the Temporary National Economic Committee was created and give great impetus to the concentration of economic control.

F. No doubt as to the wisdom of minimum price maintenance would justify Federal nullification of state Fair Trade laws.

The states are sovereign bodies, supreme within their own jurisdiction, and any effort to degrade them into Federal municipalities should be vigorously resisted. They are laboratories in which social and economic experiments may safely be carried out, and where principles may be proved in practice before they are adopted elsewhere. This is one of the merits of the Federal system.

In order that the states may fulfill this purpose, there should be no frivolous interference with these experiments by the Federal government. Unless the rights and interests of the people of the whole country are seriously affected, the attitude of Congress should be one of sympathetic interest. The Congress manifested such an interest when it passed the Tydings-Miller law.

It is not within the province of any Federal bureau, nor even of the courts, to say whether, in seeking to solve their economic problems, the States have adopted the best methods that might be devised. The direction of the effort is for the state legislatures to determine. In *Joseph Triner Corporation v. Carl W. McNeil*, 363 Ill. 559, the Court said:

"It is wholly immaterial whether the individual members of this Court agree with the economic and social philosophy upon which the Fair Trade Act is established, and no duty rests upon us to pass upon the wisdom of the economic public policy which it declares. That function is wholly legislative. It is not a judicial function to lecture either the public or business. Neither is it within the province of the Court to philosophize concerning economic conditions. In passing, however, we cannot help but note that many of the present legislative enactments, such as the Fair Trade acts of New York, California and Illinois, are resultants brought about because of the failure of the public, and particularly the business public, to observe those ethical principles which lie at the very foundation of fair dealing and business honesty. The shady efforts made by some to obtain an unfair advantage over others are not compatible with good citizenship nor in keeping with the best traditions of the law merchant as known at the common law. If public opinion cannot check these practices, then business can expect legislatures to attempt to remedy them."

In *Nebbia v. New York*, 291 U. S. 502, at page 537 the Supreme Court of the United States, speaking through Mr. Justice Roberts, presented the same thought:

"But there can be no doubt that upon proper occasion and by appropriate measures the state may regulate a business in any of its aspects, including the prices to be charged for the products or commodities it sells.

"So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy, or, when it is declared by the legislature, to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of the due process of law are satisfied, and judicial determination to that effect renders a Court *functus officio*. Whether the free operation of the normal laws of competition is a wise and wholesome rule of trade and commerce is an economic question which this court need not consider or determine. And it is equally clear that if a legislative body be to curb unrestrained and harmful competition by measures which are not arbitrary or discriminatory it does not lie with the courts to determine that the rule is unwise. With the wisdom of the policy adopted, with the adequacy or practicability of the law enacted to forward it, the courts are both incompetent and unauthorized to deal. The course of decisions in this court exhibits a firm adherence to these principles. Times without number we have said that the legislature is primarily the judge of the necessity of such an enactment, that every possible presumption is in favor of its validity, and that though the court may hold views inconsistent with the wisdom of the law, it may not be annulled unless palpably in excess of legislative power.

"The law-making bodies in the past endeavored to promote free competition by laws aimed at trusts and monopolies. The consequent interference with private property and freedom of contract has not availed with the courts to set these enactments aside as denying due process. Where the public interest was deemed to require the fixing of minimum prices, that expedient has been sustained. If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public."

Forty-four state legislatures and both Houses of the Congress have considered, weighed and analyzed the social, economic and legal implications of the Fair Trade laws, and those measures have survived the scrutiny of the Supreme Courts of fourteen states and of the Supreme Court of the United States; and before

questioning the wisdom and need of these measures or asking to have them nullified by repeal of the Fair Trade Enabling Act, one must come prepared to overcome a tremendous burden of proof in their favor.

It is proper for this Committee to consider to what extent the Sherman law and other anti-trust laws, intended for the prevention of monopoly, may be used instead for the protection of monopoly and the discomfiture of small business men banded together in self-defense against their powerful competitors. A few men using the corporate device may establish prices in ten thousand stores with impunity; they may set prices below cost in order to drive their small competitors out of business and thereby obtain a monopoly. But if those small competitors, or even any two of them, in self-defense, act in concert to influence, in any way, the prices in their stores, they incur the risk of criminal penalties. This we believe to be the core of the monopoly problem to which this Committee must address itself if it shall fulfill its intended function.

The monopoly picture has changed since the Sherman Act was passed, and the laws of the land should be brought into harmony with present economic realities. Only thereby can a truly competitive economic system be saved.

The states have gone so far as they could within the limits of their power to correct the situation. The least the Federal government can do, is to refrain from placing any impediment in their way.

IV. *The principle of Fair Trade laws is economically sound, and the results of their application have justified their enactment.*

A. The Federal government has itself accepted and applied the principle of minimum-price maintenance in many fields:

(1) In the field of Labor, by fixing minimum wages and maximum hours.

(2) In the field of Agriculture, by making loans on basic crops, in excess of their current market values; such loans, being made without recourse, make the established loan values the minimum prices for all cooperating farmers.

(3) In the Guffey Coal Act, which provides for the establishment of minimum prices for various kinds and grades of coal.

(4) In the Interstate Commerce Act, and in amendatory and supplementary acts, the Federal government has gone even farther, in establishing rates for transportation which are both minimum and maximum.

B. Loss-leader selling, which the Fair Trade laws are designed to curb, is an economic evil.

(1) It tends to divert business from local communities, and from states, to a relatively few centers of distribution, and, *pro tanto*, to create monopolies in distribution. Such diversion may be from entire regions of the country to strategically located mail-order houses, or from the outlying communities of a city to a few stores in the downtown trading area. In either event the trend is economically unsound.

Mail-order houses and merchandising chains can draw trade by using the loss-leader technique, because they have the facilities for advertising loss-leaders effectively by issuing millions of catalogs and by using large space in the metropolitan newspapers.

Small merchants cannot issue catalogs or use the newspapers cooperatively; for if they did, they would be charged with having entered into horizontal agreements in determining the prices to be advertised. They cannot use advertising space individually; for a merchant operating in a small trade area cannot afford to pay for circulation which covers a whole city or even an entire state.

Hence the loss-leader technique is one which can be used to advantage only by the great distributors, and its employment by them leads to a concentration of business.

It is a poor answer to say that the number of small merchants is nevertheless showing a modest increase; for the true measure is not the number of individuals engaged in business, but the proportion of the total volume which small merchants do. Business statistics show that while the larger units are reporting sales increases running up to more than 20% a year, the volumes of small enterprises are showing only slight increases, or even losses.

Also, changes of ownership of small businesses must be considered in connection with increases in the number of small entrepreneurs. The fact that individuals are willing to take over businesses in which others have failed, or even to start new enterprises, does not prove that a business is sound and prosperous. On the contrary, frequent changes of ownership show that the impact of predatory price competition is disastrous to small businesses.

(2) Gross margins established under Fair Trade contracts are generally lower than the average operation costs in stores of optimum efficiency, and hence cannot be regarded as unfair to the consumer.

The brief filed with the Temporary National Economic Committee by the Assistant Attorney General Thurman Arnold seems to be based on the assumption that Fair Trade agreements are desired by independent merchants to force chain stores to increase their prices beyond those which the chains require to cover their operation costs. In *An Appraisal of Fair Trade and Unfair Practices Acts*, a statement made by Mr. Corwin D. Edwards before the American Economic Association and appended to his brief and made a part thereof, he said:

"Both the minimum price laws and the resale contract laws express the resistance of established distributors to change. Economists have often pointed out that progress in distribution has not kept pace with manufacturing and that costs of distribution should come down. New types of distributive enterprise which offer promise of such a development are the targets of this restrictive legislation. Thus these laws are the distributional prototypes of the earlier statutes by which a handicraft society sought to limit or prevent the growth of modern manufacture. Public bodies have no doubt been more receptive to such legislation because some of the new distributional forms are large enterprises, which, it is thought, may become monopolistic."

It is a clear inference from this statement that Mr. Edwards believes that the large distributors, the catalog houses and the chains, have a lower cost of operation than small retailers. It is no part of this brief to disprove that inference. For the present purpose, let us accept it.

But if these great distributors represent the most efficient instruments of distribution, it follows that Fair Trade margins which no more than cover their actual distribution costs, cannot be deemed to be unfair to the consumer, but, on the contrary, are fair and necessary margins.

It becomes pertinent then, to ascertain what the distribution costs of these purportedly most efficient distributors, are.

The Bureau of Business Research of the Graduate School of Business Administration of Harvard University found in a survey of department stores doing 38% of the department-store business in the country, that their cost of operation was 37.4%.

The Federal Trade Commission, in its report on the Operating Costs of Chain Stores, disclosed that the costs of operating different classifications of chain stores were as follows:

Drugs.....	33. 03%	Women's ready-to-wear.....	30. 81%
Furniture.....	39. 59%	Hardware.....	26. 21%
Men's shoes.....	31. 16%	Dry Goods.....	24. 34%
Women's shoes.....	31. 34%	Tobacco.....	27. 07%
Millinery.....	44. 06%	Variety (unlimited).....	29. 29%
Confectionery.....	44. 26%	Variety (\$5 limit).....	27. 41%
Musical instruments.....	34. 06%	Variety (\$1 limit).....	25. 86%
Men's ready-to-wear.....	32. 26%	Groceries.....	18. 66%
Men's furnishings.....	37. 75%	Meats.....	20. 34%
Hats and caps.....	42. 20%	Groceries and meats.....	16. 15%

These are the operation costs of the large distributors, which, according to the opponents of Fair Trade laws and the Fair Trade Enabling Act, are the most efficient in their respective fields. In order to prove their case, those who wish to repeal those laws must show that, not in exceptional cases, but in general, Fair Trade contracts now in force protect margins that are more than adequate to cover these operation costs. This they have not attempted to do, and in our opinion, cannot do.

We may add that it is our opinion that if the gross margins afforded by Fair Trade prices on drugs and drug supplies should ever equal the 33.03% which the Federal Trade Commission tells us is the average operation cost of the drug chains, the independent retail druggists of the United States would be well satisfied. Such margins would not yield a net profit unless they could be earned by greater efficiency than the big distributors have, but they would give the small distributors protection against the use of cut prices on desired brands as a means of cajoling the consumer and thereby aggrandizing trade not earned by giving, generally, either better values or superior service.

It is our recommendation that if the Committee desires to make any findings relative to the Fair Trade Enabling Act, it should first make a thorough inquiry to determine what the gross margins are, under existing contracts; and not rely

on exceptional instances alleged—but not specifically cited—in the brief to which we have herein referred.

(3) Prices of Fair-Traded brands have not increased over those generally prevailing previously, but, on the contrary, have decreased.

The only comprehensive survey of the effect of Fair Trade on the prices paid by consumers for drugs and drug store merchandise was made by Prof. H. J. Ostlund, of the School of Business of the University of Minnesota. The fact that the Druggists' Research Bureau sponsored his survey in no way vitiates his report, for the specific data upon which his conclusions are based are set forth in the report, and these cannot be challenged without attacking the academic integrity of the authority who assembled them.

This survey, covering all the 42 states which had had Fair Trade laws long enough to make price comparisons possible, required two years to make and was therefore very thorough. It showed that, over the country as a whole, the Fair Trade prices, instead of being higher, were actually 0.9% lower than those which had prevailed before the Fair Trade laws went into effect. Prices were lower in the states where 70% of the people live; they were slightly higher in the states where 30% of the people reside. But in the latter category of states, the price increases were felt only by those who lived in great metropolitan centers where national brands had been used most extensively as loss-leaders.

Of the 42 states surveyed, only 8 showed an increase, and in two of them the increase was only one-tenth of one per cent. In all except one or two instances, the increase even in those 8 states was limited to the larger cities and the larger dollar-volume stores. In other words, even where the state average showed an increase, only a comparatively few people in the state—those patronizing cut-rate stores—felt price increases. Other thousands of people, living in the smaller communities, or in the larger cities but buying at stores not offering advertised brands as "bait," enjoyed savings effected by the stabilization which Fair Trade brought in the drug market.

The charge that Fair Trade laws are price-fixing laws was fully answered by the finding that even after Fair Trade went into effect, prices for articles made to sell for \$1 "list" ranged from 83.6 cents to 98.1 cents. Also, it is interesting to note that while most chain-store indices showed an increase, there were decreases in chain-store averages in two states, showing that Fair Trade margins were lower than those which the chain stores in those states deemed adequate.

A copy of the complete report has been filed with the Committee, and a state-by-state summary is appended hereto.

(4) Loss-leaders, where permitted, do not represent savings to the consumer.

If all goods sold in a store which employs the loss-leader technique were offered at comparable prices, no cut-price store could remain in business. The losses on loss-leaders must be made up on other goods. Loss-leaders are a very expensive form of sales promotion, and the cost must, of necessity, be reflected in the over-all cost of operation.

Loss-leader selling, therefore, is a device by which the customer is induced by the saving effected on a few featured items, to pay for the great majority of his requirements more than he would otherwise be obliged to pay. Instead of reducing the cost of living, loss-leaders increase it by raising *average* distribution margins.

If the public generally knew this, the problem would solve itself and Fair Trade laws would not be needed. But the public doesn't know it, because its knowledge of values and judgment of merchandise bought outside the range of known brands are necessarily limited; only experts can recognize the differences, and they can discover them only by making expensive surveys which the individual consumer cannot undertake.

Not even the government has attempted to make such a survey; hence the conclusion must rest on logical reasoning—but on reasoning as definite and certain as a demonstration in Euclid. Losses sustained in selling a few things for less than cost (including the over-all cost of operation) must be made up by requiring the consumer to pay for the major part of his purchases more than he would otherwise have to pay.

But although comprehensive proof is lacking, there is factual evidence to prove the conclusion in notable instances which have unquestionable probative value.

One of the most conspicuous critics of Fair Trade laws and the Fair Trade Enabling Act is R. H. Macy & Company of New York. Smith W. Brookhart, then a Senator from Iowa, presented a record of purchases made by custom agents at the direction of Secretary of the Treasury Mellon under a resolution of the Senate adopted when a certain tariff bill was under consideration. The Senator wanted to know the effect of the tariff on retail prices of imported mer-

chandise. The record of purchases which Senator Brookhart placed in the *Congressional Record* is as follows:

Article	Where purchased	Landed Cost	Retail Price	% of Price to cost
Pie Plate.....	R. H. Macy & Co., New York.	\$0.103	\$0.29	181
Glass lamp dome.....	do.	.458	1.74	280
Glass lamp chimney.....	do.	.0641	.23	258
Salad set.....	do.	1.64	4.75	189
Marcel iron.....	do.	.1251	1.39	1,012
Sauce pot.....	do.	.40	1.24	210
Dinner set (100-piece).....	do.	35.30	134.00	279
Dinner plate.....	do.	.327	.98	199
Aluminum teaspoon.....	do.	.0059	.04	580
Sewing basket.....	do.	2.01	7.54	274
Scrub cloth.....	do.	.0666	.26	290
Castile soap.....	do.	.92	2.34	150
Steamer rug.....	do.	6.32	14.89	136
Bridge set.....	do.	2.92	6.94	138
Barometer.....	do.	1.40	7.94	467
Apollinaris water.....	do.	.1194	.39	227
Beaded trimming.....	Namm Store, Brooklyn.	.082	.25	204

Senator Brookhart's comment is germane to the question under consideration: "Mr. President, the products listed in the foregoing table are all nameless, unidentified, imported goods. They are some of the articles used by such stores as Macy & Company of New York for the purpose of extorting from the unsuspecting public excessive profits to make up for American-made, trade-mark goods advertised to the public as 'bargain bait' on the sale of which the profits are small, if any at all."

In considering that type of predatory price-competition which is represented by loss-leader merchandising, it is interesting to note what Prof. Seligman, an economist of acknowledged standing, says in his *Price Cutting and Price Maintenance*, commencing on page 267:

"Having thus cleared the ground for the conception of true competition and for the benefits which accrue from the competitive process, we are now prepared to consider the concept of pseudo-competition.

"Pseudo-competition, as distinct from real competition, partakes of the characteristics either of the brute struggle or of the sporting rivalry. So-called cut-throat competition is not true competition; it is brute competition. In the first place, the avowed object of cut-throat competition is to cut the throat of the competitor. True competition permits the competitor still to compete and to do his best, for who knows when the temporarily unsuccessful competitor may not through a turn of fortune, a new invention, or any other conjuncture of events, become the successful competitor? Cut-throat competition is designed, on the other hand, to remove the rival entirely from the arena in order that the successful competitor may remain in control. *Cut-throat competition results in monopoly.* [The italics are our own.] The temporary benefit to the consumer from the reduction in price will in the end be more than outweighed by the evils of monopoly. Cut-throat competition, therefore, is pseudo-competition, not real competition."

On page 276 the author continues:

"We conclude accordingly that, apart from the particular form it may assume, the general principle of resale price maintenance is legitimate; the type of price-cutting which we have studied in this volume is a form of unfair competition; price maintenance is a step toward fair competition. It is economically defensible, and therefore ethically desirable. The adoption of resale price maintenance as a general principle will mean, on the whole, a step forward in American business life."

(5) Brand competition affords the consumer complete protection against excessive Fair Trade minimums.

The potency of private-brand competition is so great that the Assistant Attorney General dwells upon it in his brief, asserting that the chains will use private brands to the independents' disadvantage. It is significant in this connection, that the independents apparently do not fear any such disadvantage, probably because there are innumerable private brands available for their use in meeting the chains' private brand competition.

The important thing in the Assistant Attorney General's brief in this connection is that he recognizes the potency of private-brand competition. It is always present, and it operates as an effective brake on the price policies of national advertisers. Any national-brand manufacturer whose prices get out of line loses business, not in a single community but throughout the nation. He risks his large investment in the good will he has created.

The same thing is true of the price relationships of competing national brands. Each manufacturer must hold his prices down to those of other national brands in order to stay competitive. The new manufacturer-manufacturer price competition is much more beneficial to the great body of consumers than the retailer-retailer competition which prevails in non-Fair Trade markets; for the latter type of competition brings prices down only for those consumers who buy in highly competitive trade areas, which are scattered and restricted, while the benefits of manufacturers' competition with each other extends to every consumer in the land.

(6) Prices in a privately operated economy are necessarily fixed by somebody, hence the charge that Fair Trade statutes permit private price-fixing loses its point.

The only alternative to private establishment of prices is government price-fixing, which involves a radical reorganization of the nation's economy along lines which have found acceptance in some European countries.

We cannot endorse the statement in the introduction to the Assistant Attorney General's brief, that "no ordinary social or economic legislation, or even emergency legislation, can be expected to work in an economy where the private seizure [the italics are ours] of arbitrary industrial power over production and distribution is permitted."

In the first place, we deny that private pricing of merchandise is a seizure of economic power. Our system rests upon the principle that the citizen has, of right, such powers as the government has not taken from him. Among those powers is that of pricing. Under the common law that power extends even to pricing by concerted action of competitors, and that right is recognized in England today except in so far as it may have been modified recently by emergency war regulations.

In the United States the right of pricing as it existed under the common law has been modified by the Sherman Act and its amendments; but only to the extent that there must be no horizontal concert of action.

In a free economy prices are necessarily determined by private agencies. In an auction sale, the buyers determine them; but in the ordinary course of commerce prices are fixed by some seller, whether manufacturer or distributor, or by an agreement between a manufacturer and his distributor.

The manufacturer best knows the ingredients and value of his product; he can best determine at which price the product will move into consumption; he has an investment in good will which he cannot afford to leave to the untender mercy of predatory distributors whose interest in his product is limited to the use to which it may be put in selling other merchandise. The manufacturer therefore should have a voice in determining the minimum price at which his branded goods should be offered in the market. That is the essence of Fair Trade.

The Fair Trade issue simmers down to this: Is the great body of consumers (not isolated groups or individuals among them, but all of them) better served when resale prices are determined for the whole country by manufacturers who must meet competition everywhere, or by individual retailers who are confronted only by the necessity of meeting competitive conditions in their respective communities, being otherwise limited only by "what the market will bear"?

(7) Price-pressure under the impact of below-cost selling is unsound and against public policy.

It is conceded that price reductions brought about by increased efficiency are economically desirable; but no such claim can be made for price reductions forced by distributors who sell below cost. Such reductions result in (a) deception of the consumer if the loss is made up on other goods; or (b) bankruptcy for the distributor if the loss cannot be so recovered, with consequent economic dislocation; or (c) curtailment of quality or quantity to meet a lower price; or (d) efforts by the producer to make the product for the reduced price by further mechanization or by reducing wages, lengthening hours or speeding up work; or (e) a combination of two or more of these evils.

We challenge the conception that prices as counted in dollars and cents are paramount, and offer the thesis that the interests of men as earners and producers transcend in permanent importance their interests as buyers of merchandise. Goods sold below the reasonable cost of making and distributing them are not bargains; they are an extravagance the nation can ill afford.

APPENDIX A

A STATE-BY-STATE ANALYSIS OF THE DRUGGISTS' RESEARCH BUREAU'S FINDINGS REGARDING THE EFFECT OF FAIR TRADE LAWS ON THE CONSUMER PRICES OF FIFTY LEADING DRUG STORE ITEMS

(Compiled from "Fair Trade and the Retail Drug Store", 1940)

42 Fair Trade States.

On average, prices decreased 1%. Reports received from 23.4% of all drug stores in the forty-two states, representing 20.4% of independents and 66.6% of chains. Each \$1 at retail list sold at 87.9c before Fair Trade; at 87.0c in 1939—a decrease of 0.9c.

Savings on \$1 list were 3.9c in towns under 10,000; 1.5c in towns of 10,000 to 100,000; in towns of 100,000 to 1,000,000 there was a price increase of 0.6c; and in towns of 1,000,000 and over, prices advanced 2.5c. Population figures indicate that approximately 70% of the people in the 42 states live in the first two city-size group classifications.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 2.5c per \$1 list; \$10,000 to \$20,000, a decrease of 3.4c; \$20,000 to \$30,000, a decrease of 3.5c; \$30,000 to \$50,000, a decrease of 3.3c; \$50,000 and over, a decrease of 0.4c. Chains showed increase of 4.9c.

Arkansas.

Law enacted in February, 1937; on average, prices declined 2.7%. Reports received from 104 drug stores, representing 14% of independents and 100% of chains. Each \$1 at retail list sold at 97.7c before Fair Trade; at 95.1c in 1939 a decrease of 2.6c.

Savings on \$1 list were 2.3c in towns under 10,000; 3.2c in towns of more than 10,000 population.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed little change of prices; larger stores showed decreases, those with sales over \$50,000 showing the maximum decrease of 6.4c. Chains showed an increase of 6.9c.

Colorado.

Law enacted in March, 1937; on average, prices increased 0.3%. Reports received from 146 drug stores, representing 22% of independents and 56% of chains. Each \$1 at retail list sold at 87.2c before Fair Trade; at 87.5c in 1939—an increase of 0.3c.

Savings on \$1 list were 3.3c in towns under 10,000; 0.9c in towns of 10,000 to 100,000; in Denver, the only city of more than 100,000, there was an increase of 3.0c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a reduction of 1.3c per \$1 list; \$10,000 to \$20,000, a decrease of 3.8c; \$20,000 to \$30,000, a decrease of 2.9c; \$30,000 to \$50,000, a decrease of 2.7c; \$50,000 and over, an increase of 4.9c. Chains showed an increase of 4.0c.

Connecticut.

Law enacted in June, 1937; on average, prices declined 1.5%. Reports received from 200 drug stores, representing 22% of independents and 81% of chains. Each \$1 at retail list sold at 86.2c before Fair Trade; at 84.9c in 1939—a reduction of 1.3c.

Savings on \$1 list were 5.3c in towns under 10,000; there was an increase of 0.1c in towns of 10,000 to 100,000; in towns of 100,000 or more there was an increase of 0.6c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 3.6c per \$1 list; \$10,000 to \$20,000, a decrease of 4.0c; \$20,000 to \$30,000, a reduction of 3.9c; \$30,000 to \$50,000, a reduction of 2.6c; \$50,000 and over, a decrease of 2.0c. Chains showed an increase of 7.2c.

Florida.

Law enacted in June, 1937; on average, prices decreased 1.6%. Reports received from 182 drug stores, representing 16% of independents and 72% of chains. Each \$1 at retail list sold at 90.8 before Fair Trade; at 89.4c in 1939—a decrease of 1.4c.

Savings on \$1 list were 2.0c in towns under 10,000; 1.5c in towns of 10,000 to 100,000; in cities of more than 100,000 there was a reduction of 0.8c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a reduction of 1.3c per \$1 list; \$10,000 to \$20,000, a decrease of 4.4c; \$20,000 and over, smaller decreases. Chains showed an increase of 6.9c.

Georgia.

Law enacted in March, 1937; on average, prices decreased 2.9%. Reports received from 179 drug stores, representing 12% of independents and 72% of chains. Each \$1 at retail list sold at 92.9c before Fair Trade; at 90.2c in 1939—a decrease of 2.7c.

Savings on \$1 list were 3.9c in towns under 10,000; 3.1c in towns of 10,000 to 100,000; in Atlanta, only city of more than 100,000, there was a reduction in the average price of 0.7c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 3.0c per \$1 list; \$10,000 to \$20,000, a decrease of 4.4c; \$20,000 to \$30,000, a reduction of 5.6c; \$30,000 to \$50,000, a decrease of 3.9c; \$50,000 and over, a decrease of 3.6c. Chains showed an increase of 5.5c.

Illinois.

Law enacted in July, 1935; on average, prices decreased 1.1%. Reports received from 883 drug stores, representing 19% of independents and 78% of chains. Each \$1 at retail list sold at 87.3c before Fair Trade; at 86.4c in 1939—a decrease of 0.9c.

Savings on \$1 list were 4.4c in towns under 10,000; 2.1c in towns of 10,000 to 100,000; 1.1c in Peoria, only city in the group of 100,000 to 1,000,000; in Chicago, with a population exceeding 3,000,000, there was an increase of 0.2c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 3.8c per \$1 list; \$10,000 to \$20,000, a decrease of 4.5c; \$20,000 to \$30,000, a reduction of 4.8c; \$30,000 to \$50,000, a decrease of 4.2c; \$50,000 and over, a decrease of 2.3c. Chains showed an increase of 3.7c.]

Indiana.

Law enacted in February, 1937; on average, prices decreased 1.9%. Reports received from 475 drug stores, representing 26% of independents and 88% of chains. Each \$1 at retail list sold at 88.0c before Fair Trade; at 86.3c in 1939—a decrease of 1.7c.

Savings on \$1 list were 4.2c in towns under 10,000; 1.7c in towns of 10,000 to 100,000; 0.2c in towns of more than 100,000.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 2.6c per \$1 list; \$10,000 to \$20,000, a decrease of 5.0c; \$20,000 to \$50,000, slight decreases; \$50,000 and over, a decrease of 0.9c. Chains showed an increase of 1.8c.

Iowa.

Law enacted in May, 1935; on average, prices decreased 4.6%. Reports received from 332 drug stores, representing 24% of independents and 61% of chains. Each \$1 at retail list sold at 94.6c before Fair Trade; at 90.2c in 1939—a decrease of 4.4c.

Savings on \$1 list were 5.1c in towns under 10,000; 4.5c in towns of 10,000 to 100,000; 1.6c in Des Moines, only city over 100,000.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.2c per \$1 list; \$10,000 to \$20,000 a decrease of 5.6c; \$20,000 to \$30,000, a decrease of 7.3c; \$30,000 to \$50,000 a decrease of 7.4c; \$50,000 and over, a decrease of 6.4c. Chains showed an increase of 5.0c.

Kansas

Law enacted in March, 1937; on average, prices decreased 2.6%. Reports received from 288 drug stores, representing 25% of independents and 44% of chains. Each \$1 at retail list sold at 93.5c before Fair Trade; at 91.1c in 1939—a decrease of 2.4c.

Savings on \$1 list were 3.5c in towns under 10,000; 3.4c in towns of 10,000 to 100,000; there was an increase of 1.5c in Kansas City representing the 100,000 to 1,000,000 group.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 3.0c per \$1 list; \$10,000 to \$20,000, a decrease of 3.4c; \$20,000 to \$30,000, a decrease of 4.5c; \$30,000 to \$50,000, a decrease of 3.4c; \$50,000 and over, a decrease of 6.5c. Chains showed an increase of 4.7c.

Kentucky.

Law enacted in January, 1937; on average, prices decreased 2.2%. Reports received from 215 drug stores, representing 23% of independents and 72% of chains. Each \$1 at retail list sold at 91.4c before Fair Trade; at 89.4c in 1939—a decrease of 2.0c.

Savings on \$1 list were 2.7c in towns under 10,000; 3.2c in towns of 10,000 to 100,000; in Louisville (100,000 to 1,000,000 group) there was a decrease of 0.1c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.1c per \$1 list; \$10,000 to \$20,000, a decrease of 2.9c; \$20,000 to \$30,000, a decrease of 3.8c; \$30,000 to \$50,000, a decrease of 3.4c; \$50,000 and over, a decrease of 3.5c. Chains showed an increase of 5.5c.

Louisiana.

Law enacted in July, 1936; on average, prices decreased 0.6%. Reports received from 104 drug stores, representing 9% of independents and 51% of chains. Each \$1 at retail list sold at 91.5c before Fair Trade; at 91.0c in 1939—a decrease of 0.5c.

Savings on \$1 list were 1.8c in towns under 10,000; there was an increase of 1.8c in towns of 10,000 to 100,000; in New Orleans (100,000 to 1,000,000 group) the average price was 0.8c lower.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.2c per \$1 list; \$10,000 to \$20,000, a decrease of 0.9c; \$20,000 to \$30,000, a decrease of 1.6c; \$30,000 to \$50,000, a decrease of 2.6c; \$50,000 and over, an increase of 3.7c. Chains showed an increase of 1.8c.

Maine.

Law enacted in April, 1937, on average, prices decreased 4.4%. Reports received from 114 drug stores, representing 30% of all drug stores in the state. Each \$1 at retail list sold at 93.8c before Fair Trade; at 89.7c in 1939—a reduction of 4.1c.

Savings on \$1 list were 5.6c in towns under 10,000; 2.0c in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.0c per \$1 list; \$10,000 to \$20,000, a decrease of 4.5c; \$20,000 to \$30,000, a decrease of 6.6c; \$30,000 to \$50,000, a decrease of 6.1c; \$50,000 and over, a decrease of 1.0c. Chain figures are not reported.

Maryland.

Law enacted in May, 1935; on average, prices increased 0.7%. Reports received from 171 drug stores, representing 19% of independents and 74% of chains. Each \$1 at retail list sold at 84.3c before Fair Trade; at 84.9c in 1939—an increase of 0.6c.

Savings on \$1 list were 1.3c in towns under 10,000; 0.3c in towns of 10,000 to 100,000; in Baltimore (100,000 to 1,000,000 group) there was an increase of 1.2c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 0.4c per \$1 list; a decrease of 3.9c; in-between groups proportionately; \$50,000 and over, an increase of 1.5c. Chains showed an increase of 4.6c.

Massachusetts.

Law enacted in May, 1937; on average, prices declined 1.2%. Reports received from 436 drug stores, representing 20% of independents and 50% of chains. Each \$1 at retail list sold at 86.2c before Fair Trade; at 85.2c in 1939—a reduction of 1.0c.

Savings on \$1 list were 6.2c in towns under 10,000; 0.8c in towns of 10,000 to 100,000; in towns of more than 100,000 there was no appreciable change.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a reduction of 3.9c per \$1 list; larger store-size groups showed consecutively smaller reductions, and in the group of \$50,000 and over, there was an increase of 0.9c. Chains showed an increase of 5.0c.

Michigan.

Law enacted in May, 1937; on average, prices decreased 0.5%. Reports received from 581 drug stores, representing 21% of independents and 62% of chains. Each \$1 at retail list sold at 87.4c before Fair Trade; at 87.0c in 1939—a decrease of 0.4c.

Savings on \$1 list were 3.3c in towns under 10,000; 1.2c in towns of 10,000 to 100,000; an increase of 0.7c in towns of 100,000 to 1,000,000; in Detroit (more than 1,000,000) there was an increase of 1.4c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.1c per \$1 list; \$10,000 to \$20,000, a decrease of 3.8c; \$20,000 to \$30,000, a decrease of 3.1c; \$30,000 to \$50,000, a decrease of 2.8c; \$50,000 and over, a decrease of 0.9c. Chains showed an increase of 5.7c.

Minnesota.

Law enacted in March, 1937; on average, prices declined 2.9%. Reports received from 318 drug stores,¹ representing 27% of independents and 53% of chains. Each \$1 at retail list sold at 89.7c before Fair Trade; at 87.1c in 1939—a decrease of 2.6c.

Savings on \$1 list were 7.1c in towns under 10,000; 5.3c in towns of 10,000 to 100,000; in towns of more than 100,000, there was an increase of 0.6c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 5.5c per \$1 list; \$10,000 to \$20,000, a decrease of 5.1c; \$20,000 to \$30,000, a decrease of 5.3c; \$30,000 to \$50,000, a decrease of 4.8c; \$50,000 and over, a decrease of 3.1c. Chains showed an increase of 5.6c.

Mississippi.

Law enacted in April, 1938; on average, prices decreased 1.5%. Reports received from 80 drug stores, representing 13% of all drug stores in the state. Each \$1 at retail list sold at 99.7c before Fair Trade; at 98.1c in 1939—a reduction of 1.6c.

Savings on \$1 list were 0.7c in towns under 10,000; 3.0c in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a reduction of 0.4c per \$1 list; \$10,000 to \$20,000, a decrease of 1.0c; \$20,000 to \$30,000, a decrease of 2.1c; \$30,000 to \$50,000, a decrease of 2.2c; \$50,000 and over, a decrease of 2.9c. Chains showed an increase of 2.3c.

Montana, Wyoming and Idaho.

Laws enacted in 1937; on average, prices in the three states decreased 4.5%. Reports received from 149 drug stores, representing 24% of independents and 80% of chains. Each \$1 at retail list sold at 94.8c before Fair Trade; at 90.5c in 1939—a decrease of 4.3c.

Savings on \$1 list were 4.7c in towns under 10,000; 3.2 in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.3c per \$1 list; \$10,000 to \$20,000, a decrease of 4.6c; \$20,000 to \$30,000, a decrease of 5.2c; \$30,000 to \$50,000, a decrease of 6.2c; \$50,000 and over, a decrease of 4.5c. Chains showed an increase of 5.2c.

Nebraska.

Law enacted in April, 1937; on average, prices decreased 5.2%. Reports received from 201 drug stores, representing 24% of independents and 73% of chains. Each \$1 at retail list sold at 95.8c before Fair Trade; at 90.9c in 1939—a decrease of 4.9c.

Savings on \$1 list were 4.8c in towns under 10,000; 6.6c in towns of 10,000 to 100,000; in Omaha (100,000 to 1,000,000 group) savings were 3.9c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 2.5c per \$1 list; \$10,000 to \$20,000, a decrease of 4.1c; \$20,000 to \$30,000, a decrease of 7.1c; \$30,000 to \$50,000, a decrease of 7.2c; \$50,000 and over, a decrease of 5.7c. Chains showed an increase of 2.9c.

New Hampshire.

Law enacted in August, 1937; on average, prices declined 6.3%. Reports received from 45 drug stores, representing 19% of all drug stores in the state. Each \$1 at retail list sold at 93.7c before Fair Trade; at 87.8c in 1939—a reduction of 5.9c.

Savings on \$1 list were 5.6c in towns under 10,000; 6.2c in town of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 7.7c per \$1 list; \$10,000 to \$20,000, a decrease of 8.1c; \$20,000 to \$30,000, a decrease of 3.7c; \$30,000 to \$50,000, a decrease of 5.7c; \$50,000 and over, a decrease of 6.2c. Chains showed a decrease of 2.8c.

New Jersey.

Law enacted in February, 1935; on average, prices increased 4.3%. Reports received from 392 drug stores, representing 20% of independents and 48% of chains. Each \$1 at retail list sold at 80.2c before Fair Trade; at 83.6c in 1939—an increase of 3.4c.

Savings on \$1 list were 0.3c in towns under 10,000; prices increased 2.9c in towns of 10,000 to 100,000; and increased 6.4c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 2.6c per \$1 list; \$10,000 to \$20,000, a decrease of 0.8c; \$20,000 to \$30,000, an increase of 2.4c; \$30,000 to \$50,000, an increase of 1.5c; \$50,000 and over, an increase of 8.6c. Chains showed an increase of 9.3c.

New Mexico, Utah, Arizona and Nevada.

Laws enacted in 1937; on average, prices decreased 3.2%. Reports received from 119 drug stores, representing 19% of independents and 47% of chains. Each \$1 at retail list sold at 93.9c before Fair Trade; at 90.9c in 1939—a decrease of 3.0c.

Savings on \$1 list were 2.4c in towns under 10,000; 5.0c in towns of 10,000 to 100,000; in Salt Lake City (100,000 to 1,000,000 group) there was a reduction of 0.8 c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.4c per \$1 list; \$10,000 to \$20,000, a decrease of 3.2c; \$20,000 to \$30,000, a decrease of 3.3c; \$30,000 to \$50,000 a decrease of 3.9c; \$50,000 and over, a decrease of 7.8c. Chains showed an increase of 3.9c.

New York.

Law enacted in May, 1935; on average, prices increased 2.2%. Reports received from 1,446 drug stores, representing 19% of independents and 61% of chains. Each \$1 at retail list sold at 82.1c before Fair Trade; at 83.9c in 1939—an increase of 1.8c.

Savings on \$1 list were 4.5c in towns under 10,000; prices increased 0.2c in towns of 10,000 to 100,000; and increased 0.1c in towns of 100,000 to 1,000,000; in New York, the average price was up 4.1c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed an increase of 0.1c per \$1 list; \$10,000 to \$20,000, a decrease of 0.3c; \$20,000 to \$30,000, a decrease of 0.2c; \$30,000 to \$50,000, an increase of 1.1c; \$50,000 and over, an increase of 2.9c. Chains showed an increase of 5.5c.

North Carolina.

Law enacted in March, 1937; on average, prices decreased 5.6%. Reports received from 114 drug stores, representing 12% of independents and 65% of chains. Each \$1 at retail list sold at 94.8c before Fair Trade; at 89.5c in 1939—a decrease of 5.3c.

Savings on \$1 list were 5.0c in towns under 10,000; 5.5c in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed no change; \$10,000 to \$20,000, a decrease of 4.8c per \$1 list; \$20,000 to \$30,000, a decrease of 7.1c; \$30,000 to \$50,000, a decrease of 7.7c; \$50,000 and over, a decrease of 5.9c. Chains showed an increase of 1.4c.

North Dakota and South Dakota.

Laws enacted in 1937; on average, prices decreased 5.7%. Reports received from 148 drug stores, representing 24% of all drug stores in the two states. Each \$1 at retail list sold at 97.7c before Fair Trade; at 92.2c in 1939—a decrease of 5.5c.

Savings on \$1 list were 4.7c in towns under 10,000; 7.4c in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.8c per \$1 list; \$10,000 to \$20,000, a decrease of 3.9%; \$20,000 to \$30,000, a decrease of 7.3c; \$30,000 to \$50,000, a decrease of 7.9c; \$50,000 and over, a decrease of 7.4c. Chains showed an increase of 3.9c.

Ohio.

Law enacted in April, 1936; on average, prices increased 0.1%. Reports received from 952 drug stores, representing 26% of independents and 88% of chains. Each \$1 at retail list sold at 85.1c before Fair Trade; at 85.2c in 1939—an increase of 0.1c.

Savings on \$1 list were 4.1c in towns under 10,000; in towns of 10,000 to 100,000 prices were 0.2c higher, and in towns of 100,000 or more, prices advanced 1.3c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.1c per \$1 list; \$10,000 to \$20,000, a decrease of 4.2c; \$20,000 to \$30,000, a decrease of 3.9c; \$30,000 to \$50,000, a decrease of 2.9c; \$50,000 and over, an increase of 0.5c. Chains showed an increase of 5.3c.

Oklahoma.

Law enacted in April, 1937; on average, prices decreased 1.2%. Reports received from 199 drug stores, representing 15% of independents and 68% of chains. Each \$1 at retail list sold at 93.3c before Fair Trade; at 92.2c in 1939—a decrease of 1.1c.

Savings on \$1 list were 2.8 in towns under 10,000; 0.4c in towns of 10,000 to 100,000; prices increased 0.7c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.0c per \$1 list; \$10,000 to \$20,000, a decrease of 3.1c; \$20,000 to \$30,000, a decrease of 3.4c; \$30,000 to \$50,000, a decrease of 2.6c; \$50,000 and over, a decrease of 0.5c. Chains showed an increase of 3.3c.

Oregon.

Law enacted in March, 1935; on average, prices increased 2.8%. Reports received from 164 drug stores, representing 27% of independents and 73% of chains. Each \$1 at retail list sold at 84.2c before Fair Trade; at 86.6c in 1939—an increase of 2.4c.

Savings on \$1 list were 5.7c in towns under 10,000; prices were up 2.4c in towns of 10,000 to 100,000; in Portland (100,000 to 1,000,000 group) there was an increase of 6.7c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.4c per \$1 list; \$10,000 to \$20,000, a decrease of 6.8c; \$20,000 to \$30,000, a decrease of 3.6c; \$30,000 and over, a decrease of 2.2c. Chains showed an increase of 13.5c.

Pennsylvania.

Law enacted in June, 1935; on average, prices changed very little (increased 0.1%). Reports received from 989 drug stores, representing 20% of independents and 64% of chains. Each \$1 at retail list sold at 84.1c before Fair Trade; at 84.2c in 1939—an increase of 0.1c.

Savings on \$1 list were 3.4c in towns under 10,000; 0.4c in towns of 10,000 to 100,000; in towns of 100,000 to 1,000,000 there was an increase of 0.3c; and in Philadelphia (more than 1,000,000) an increase of 3.3c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 3.3c per \$1 list; \$10,000 to \$20,000, a decrease of 2.9c; \$20,000 to \$30,000, a decrease of 2.1c; \$30,000 to \$50,000, a decrease of 2.2c; \$50,000 and over, an increase of 1.9c. Chains showed an increase of 5.3c.

Rhode Island.

Law enacted in May, 1936; on average, prices increased 2.1%. Reports received from 63 drug stores, representing 15% of independents and 78% of chains. Each \$1 at retail list sold at 82.9c before Fair Trade; at 84.6c in 1939—an increase of 1.7c.

Savings on \$1 list were 6.4c in towns under 10,000; in towns of 10,000 to 100,000 there was an increase of 0.5c; in Providence, there was an increase of 3.7c.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.3c per \$1 list; \$10,000 to \$20,000, a decrease of 2.8c; \$20,000 to \$30,000, a decrease of 0.7c; \$30,000 to \$50,000, a decrease of 0.5c; \$50,000 and over, an increase of 2.6c. Chains showed an increase of 10.2c.

South Carolina.

Law enacted in April, 1937; on average, prices decreased 5.0%. Reports received from 83 drug stores, representing 16% of all drug stores in the State. Each \$1 at retail list sold at 95.0c before Fair Trade; at 90.2c in 1939—a decrease of 4.8c.

Savings on \$1 list were 5.0c in towns under 10,000; 4.5c in towns of 10,000 or more.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.5c per \$1 list; \$10,000 to \$20,000, a decrease of 4.6c; \$20,000 to \$30,000, a decrease of 9.5c; \$30,000 to \$50,000, a decrease of 4.3c; \$50,000 and over, a decrease of 4.5c. Chains showed an increase of 4.8c.

Tennessee.

Law enacted in February, 1937; on average, prices decreased 1.8%. Reports received from 205 drug stores, representing 19% of independents and 64% of chains. Each \$1 at retail list sold at 92.9c before Fair Trade; at 91.2c in 1939—a decrease of 1.7c.

Savings on \$1 list were 2.7c in towns under 10,000; 2.3c in towns of 10,000 to 100,000; 1.0c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.3c per \$1 list; \$10,000 to \$20,000, a decrease of 2.9c; \$20,000 to \$30,000, a decrease of 3.4c; \$30,000 to \$50,000, a decrease of 5.6c; \$50,000 and over, an increase of 0.4c. Chains showed an increase of 4.3c.

Virginia.

Law enacted in March, 1936; on average, prices decreased 2.4%. Reports received from 186 drug stores, representing 22% of independents and 67% of chains. Each \$1 at retail list sold at 90.3c before Fair Trade; at 88.1c in 1939—a decrease of 2.2c.

Savings on \$1 list were 3.4c in towns under 10,000; 1.1c in towns of 10,000 to 100,000; 1.7c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 1.8c per \$1 list; \$10,000 to \$20,000, a decrease of 4.1c; \$20,000 to \$30,000, a decrease of 3.9c; \$30,000 to \$50,000, a decrease of 4.9c; \$50,000 and over, a decrease of 0.9c. Chains showed an increase of 1.9c.

Washington.

Law enacted in March, 1935; on average, prices decreased 3.2%. Reports received from 189 drug stores, representing 22% of independents and 14% of chains. Each \$1 at retail list sold at 90.8c before Fair Trade, at 87.9c in 1939—a decrease of 2.9c.

Savings on \$1 list were 5.5c in towns under 10,000; 2.0c in towns of 10,000 to 100,000; 2.1c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.0c per \$1 list; \$10,000 to \$20,000, a decrease of 4.1c; \$20,000 to \$30,000, a decrease of 4.6c; \$30,000 to \$50,000, a decrease of 5.6c; \$50,000 and over, a decrease of 1.2c. Chains showed a decrease of 0.2c.

West Virginia.

Law enacted in May, 1937; on average, prices decreased 3.9%. Reports received from 102 drug stores, representing 20% of independents and 75% of chains. Each \$1 at retail list sold at 92.0c before Fair Trade; at 88.5c in 1939—a reduction of 3.5c.

Savings on \$1 list were 4.2c in towns under 10,000; 3.0c in towns of 10,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 4.7c per \$1 list; \$10,000 to \$20,000, a decrease of 4.0c; \$20,000 to \$30,000, a decrease of 4.1c; \$30,000 to \$50,000, a decrease of 3.3c; \$50,000 and over, a decrease of 6.3c. Chains showed an increase of 2.3c.

Wisconsin.

Law enacted in May, 1935; on average, prices decreased 4.3%. Reports received from 338 drug stores, representing 24% of independents and 61% of chains. Each \$1 at retail list sold at 91.9c before Fair Trade; at 88.0c in 1939—a decrease of 3.9c.

Savings on \$1 list were 5.8c in towns under 10,000; 3.6c in towns of 10,000 to 100,000; 2.6c in towns of 100,000 and over.

Disregarding city size, independent stores doing less than \$10,000 sales annually showed a decrease of 5.5c per \$1 list; \$10,000 to \$20,000, a decrease of 5.8c; \$20,000 to \$30,000, a decrease of 5.9c; \$30,000 to \$50,000, a decrease of 5.7c; \$50,000 and over, a decrease of 4.7c. Chains showed an increase of 2.8c.

APPENDIX B

Legislative and judicial history of State fair trade acts

State	Effective Date Fair Trade Law	Date Amended	State Supreme Court Deci- sions
California.....	Aug. 14, 1931	Aug. 21, 1933; Aug. 27, 1937.....	1936—Upheld.
Oregon.....	June 7, 1933	June 12, 1935; June 7, 1937.....	1939—Upheld.
New Jersey.....	Mar. 12, 1935	Dec. 20, 1937; May 14, 1938.....	1937—Upheld.
Washington.....	Mar. 25, 1935	June 11, 1937.....	
Wisconsin.....	May 2, 1935	Sept. 19, 1935.....	1937—Upheld.
New York.....	May 17, 1935	Feb. 10, 1938; Mar. 19, 1940; Apr. 13, 1940.....	1939—Upheld.

Legislative and judicial history of State fair trade acts—Continued

State	Effective Date Fair Trade Law	Date Amended	State Supreme Court Deci- sions
Maryland	June 1, 1935	June 1, 1937	1939—Upheld.
Pennsylvania	June 5, 1935		1938—Upheld.
Iowa	July 4, 1935		1940—Upheld.
Illinois	July 8, 1935		1936—Upheld.
Rhode Island	May 5, 1936	Apr. 22, 1938; Apr. 7, 1940	
Virginia	June 18, 1936	June 21, 1938; June 28, 1940	
Ohio	July 8, 1936		
Louisiana	July 28, 1936		
Tennessee	Feb. 16, 1937		
Arizona	Feb. 23, 1937		
Montana	Feb. 23, 1937		
New Mexico	Mar. 2, 1937		
Kansas	Mar. 4, 1937		
Georgia	Mar. 4, 1937		
Nevada	Mar. 8, 1937		
Colorado	Mar. 15, 1937		
North Carolina	Mar. 22, 1937		1939—Upheld.
Minnesota	Mar. 30, 1937		
Kentucky	Apr. 16, 1937		
Nebraska	Apr. 23, 1937		
South Carolina	Apr. 23, 1937		1939—Upheld.
Wyoming	May 1, 1937		
Idaho	May 5, 1937		
Utah	May 11, 1937		
West Virginia	May 28, 1937		
South Dakota	June 3, 1937	July 1, 1939	1941—Upheld.
Florida	June 5, 1937	May 30, 1939	
Indiana	June 7, 1937		
Arkansas	June 9, 1937		
Connecticut	July 1, 1937		1937—Upheld.
North Dakota	July 1, 1937		
Maine	July 23, 1937	July 20, 1939	
Oklahoma	Aug. 9, 1937		
New Hampshire	Aug. 10, 1937		
Massachusetts	Aug. 26, 1937	Aug. 16, 1939; Sept. 24, 1939	
Michigan	Oct. 29, 1937		1941—Upheld.
Mississippi	Apr. 7, 1938		
Alabama	Feb. 17, 1939		

APPENDIX C

A SYNOPSIS OF AFFIDAVITS AND OTHER STATEMENTS FILED WITH THE TEMPORARY NATIONAL ECONOMIC COMMITTEE, SHOWING THAT THE FAIR TRADE STATUTES WERE PASSED BY THE VARIOUS STATE LEGISLATURES AFTER FULL OPEN HEARINGS THEREON AND EXTENDED CONSIDERATION AND DEBATE

California.

Affidavit of Roy S. Warnack and Frank E. Mortenson: "That the California legislature holds a bifurcated session, meeting for a 30 day period for the purpose of organization, preliminary work and the introduction of bills; then takes a constitutional recess of 30 days after which it reconvenes. That all bills are printed and accessible to the public for study. That all committee meetings of the California legislature are public hearings in that any citizen has access to these hearings and the privilege of speaking for or against pending legislation. That all scheduled committee meetings are publicized in the daily and weekly histories of the legislature and placed on bulletins in the Capitol Building * * *.

"That a lengthy hearing was had on the bill in a crowded chamber and that representatives of retail drug, retail meat dealers, retail grocers and retail hardware dealers trade associations appeared before committee as proponents of the bill. That bill was voted out with 'do pass' recommendation and passed the assembly without a dissenting vote."

The affidavit goes on to say that it went through the "orderly process of legislation" in the Senate and passed that body unanimously, and that "the regular and orderly method of the legislation caused it to be pending for almost the whole session."

Oregon.

Letter from Jack Lynch (who offers to put his communication into affidavit form): "Notices of public hearings on our three Fair Trade bills were posted in

the House of Representatives and the Senate and were announced in the press throughout the state in advance of the hearings. Representatives of the following organizations or groups appeared at the hearings in opposition to the passage of our Fair Trade bills: (a) representatives of Fred Meyer, Inc., Portland, Oregon, a so-called pineboard store chain, which operates several units in Oregon, (b) representatives of Meier & Frank Department Store, Portland, Oregon, (c) representatives of a so-called consumers' organization known as the 'Oregon State Consumers Council', (d) several representatives who allegedly represented retail establishments who purportedly were opposed to our Fair Trade bills. Official representation of the following trade groups appeared at an open hearing held in the House of Representatives prior to the enactment of our 1933 Fair Trade bill: (16 associations listed).

"It is estimated that more than 1,000 individuals from all walks of life from various parts of the state attended the above open hearing, and there was virtually a full attendance of representatives and senators. The hearing lasted approximately three hours and everyone present was given an opportunity to not only be heard but to propound questions."

The bill passed the House by a vote of 43 to 14, and the Senate by a vote of 27 to 3. "In spite of the above vote, Governor Julius Meier, who was then president and one of the principal stockholders of Meier & Frank Department Store, Portland, Oregon, vetoed the bill which was subsequently passed over his veto, as follows: (38 to 17 in the House, 25 to 5 in the Senate)."

Washington.

Letter from H. E. Henderson: "At the 1935 session (a Fair Trade bill) was introduced * * * sent to the Committee on Commerce and Manufacturing. Public hearings were held on this measure * * *. The 1935 law was an emergency measure, was for a two year period, and took effect immediately.

"The 1937 Fair Trade Act was introduced in the Senate * * * it was referred to the Committee on Commerce and Manufacturing, whose chairman was W. C. Dawson. Public hearings were held in that committee and arguments were presented for and against the measure. Two amendments were added to the bill in committee and the bill passed in the Senate by a vote of 36 yeas, and 5 nays. The bill received a vote of 81 yeas, and 3 nays in the House of Representatives * * *. In the House, when the bill came up for final passage, there were lengthy debates for and against its passage."

Letter from Carlton Sears, Secretary of the State Board of Pharmacy: "I attended the hearing held in the committee on the Fair Trade Act * * *. Many different groups appeared for and against the measure, and careful consideration was given by the committee as to the merits of their arguments."

Letter from the Honorable W. C. Dawson, Chairman of the Senate Committee on Commerce and Manufacturing: "No permanent records are kept on committee hearings or meetings. To the best of my knowledge and recollection, hearings were held on this bill (the Fair Trade bill) each time it was received in my committee." Senator Dawson then cites three times when Fair Trade bills were considered by his committee and states that on February 1, 1937, the bill was reported with amendments "after hearing and joint meeting with House Committee."

Wisconsin.

A certificate by the Honorable Fred R. Zimmerman, Secretary of State, embodying a transcript of the legislative record of committee action on the Fair Trade bill, shows that committee hearings were held in both the Assembly and the Senate; that the Assembly Committee on Commerce and Manufacture held a hearing on the bill, amended it, and thereupon unanimously recommended its passage, all members being present; that the Senate Committee on State and Local Government held a public hearing on the bill; that representatives of Ed. Schuster & Company, Milwaukee department store, and the Wisconsin Daily Newspaper League appeared in opposition to the bill; that the Committee unanimously recommended its passage, all members of the Committee being present.

Virginia.

Affidavit of A. L. I. Winne: "The Virginia Fair Trade Act was first enacted in 1936 * * *. The act was amended and re-enacted (in 1938). On each of the occasions when this measure was up for consideration, there was newspaper publicity and an ample opportunity for any interested persons to appear in support of, or opposition to, the measures. On both occasions there were several hearings in House committees and in Senate committees * * *. On the

occasion of the original enactment, a considerable amount of publicity was given to the matter prior to the meeting of the General Assembly in January, 1936. When the Assembly met in Richmond at that time, the bill was introduced and proceeded in an orderly manner through committees where public hearings were held * * *. The bill passed both branches by a large majority of votes. Again in 1938, when the bill was amended, it proceeded in much the same manner * * * and being subject, as I recall it, to two or three public hearings * * *. In this state no effort was made to railroad this measure in either instance. It was given plenty of publicity, and there was plenty of opportunity for opposition to have a voice, but very little opposition appeared. I recall one rather caustic piece of literature that was circulated and placed in the hands of legislators, signed by some sort of fictitious consumers' league * * *. Nobody at the hearings assumed responsibility for its circulation * * *. One small chain store group offered open opposition to the passage of the bill in the first instance but withdrew its opposition * * *."

Ohio.

Affidavit of Victor L. Keys: "(The House) Judiciary Committee held three public hearings on said bill * * *. At said hearings there were present representatives and members (of various associations enumerated) and members of the public * * * the only opposition appearing at said hearings was the Lane Drug Company of Toledo, Ohio, operating a chain of retail drug stores * * * the bill was passed by the House of Representatives, the vote being ayes 90, nays 12 * * * (The Senate) Welfare Committee held two public hearings on said bill, at which were present representatives of the various associations hereinabove mentioned as well as representatives of the Lane Drug Company in opposition to said bill, and members of the public * * * said bill was passed by the Senate, the vote being ayes 29, nays none * * * during the pendency of said bill in the Ohio General Assembly, publicity was given the measure by means of numerous articles in newspapers of general circulation throughout the State of Ohio * * *."

Kansas.

Affidavit of the Honorable Thale P. Skovgard, State Senator: "A public hearing was held before the Federal and State Affairs Committee in the Senate and before the Judiciary Committee of the House of Representatives. Due notice was given of both hearings."

The vote in the Senate on final passage was unanimous, and in the House the bill was passed by a vote of 103 to 5, Senator Skovgard states.

"Both the Democratic and Republican platforms carried planks covering the principle involved in Fair Trade."

Georgia.

Affidavit of the Honorable Paul L. Lindsay, former State Senator: "I sponsored it (the Fair Trade bill) through the Senate and was glad to see it pass and become a law. Learning of reports that there were irregularities about the passage of said bill and no sufficient opportunity was given the opponents of the bill, I feel glad to say that I know of no such acts but, on the other hand, the bill was regularly introduced and committee hearings had as usual in such matters."

Affidavit of the Honorable Roy V. Harris, former Speaker of the House of Representatives: "Current reports would indicate that an attempt was made to 'throttle' any and all opposition by refusal of 'open committee hearings'. Such reports have no foundation whatever, as the opportunity was given to anyone desiring to express opposition in open hearings."

Colorado.

Letter from Ira L. Quiat, Attorney at Law, Denver, Colorado: "I am reliably informed that the chairman of this committee (the House Committee on Mercantile and Manufacturing Interests) called an open meeting for the purpose of considering this bill. The public was invited. Proponents for the bill appeared and those opposed were also heard * * * 55 members of the House voted in favor of it, one voted against it * * * 27 senators voted in favor of it, 2 senators voted against it * * *."

North Carolina.

Affidavit of Frederick O. Bowman: "A public hearing was arranged for and held in the Law Library of the State Supreme Court Building (before the House Judiciary Committee), which committee after hearing arguments in behalf of the bill with no opposition being registered, voted unanimously to report the bill favor-

ably * * * (The Senate Judiciary) Committee likewise arranged and held a public hearing, after which this committee gave the bill a unanimous favorable report."

Letter from W. J. Smith: "Widespread publicity was given the legislation by the daily papers of the State before the hearing (by the House Judiciary Committee) was held * * *. The public hearing was held as scheduled and the legislation freely debated in both the House and Senate * * *. The North Carolina Fair Trade Act passed the Senate by a three-to-one vote and passed the House of Representatives unanimously."

Minnesota.

Affidavit of Jesse B. Slocumb: "There were several public hearings held in the Senate General Legislative Committee * * *. A public hearing was held (before the House Committee on Commerce, Manufacturing and Retail Trade) to discuss (two Fair Trade bills) by both proponents and opponents of the bills. Those who spoke in favor of the bills were: (lists 10 representatives of retail trade associations.) Opponents of the bill were: (lists attorneys and representatives of chain stores, two big department stores, the Minneapolis Merchants Association and Consumers League of Hennepin County.)"

Nebraska.

Certificate of Hugo F. Srb, Clerk of the Legislature: "Those appearing in favor of the bill were Senator Diers, Mr. Copaul, Mr. Harley. Those opposing the bill were Mr. Zomlick, Mr. C. D. Ammon * * *. Those in favor of the bill explained its provisions, the way it would work, and the reason for its introduction. Those opposed thought that this bill would not cure the present business evils. In fact, the cure would be worse than the trouble in years to come."

Wyoming.

Affidavit of John B. Tripeny: "A one-day public hearing on the Fair Trade bill was held in the Gladstone Hotel, Casper, Wyoming, in February, 1937."

Utah.

Affidavit of J. H. McGibbeny, Trade Practice Compliance Director for the Utah Recovery Administration, a State governmental body cooperating with the National Recovery Administration: "This affiant was instructed by the Utah Recovery Administration (in January, 1937) to draft and assist in the enactment of bills containing the legal and salient features of those Codes of Fair Competition promulgated by the said Utah Recovery Administration."

"That in accordance with the instruction of the said Utah Recovery Administration, this affiant did cause to be prepared House Bill No. 4, the so-called Fair Trade Act * * *. That on or about February 1, 1937, this affiant appeared before the House Judiciary Committee at a public hearing in the Utah State Capitol as a proponent of the aforesaid House Bill No. 4. That notice of said public hearing had duly appeared in the local newspapers and had been posted on the calendar of the House of Representatives. That at said public hearing, a full and complete opportunity was afforded both opponents and proponents of the aforesaid House Bill No. 4 to submit testimony in connection with the consideration of the merits of said bill. That on or about the 25th day of February, A. D. 1937, this affiant appeared at a public hearing of the Utah Senate Judiciary Committee at the Newhouse Hotel, Salt Lake City, Utah, at which a further opportunity was afforded the public to appear for or against the aforesaid House Bill No. 4. That said public hearing was duly and fully advertised and was attended by approximately three hundred persons."

The bill was passed in the House by a vote of 47 yeas, 1 nay; and in the Senate by a vote of 16 yeas and 1 nay.

West Virginia.

Affidavit of J. Lester Hayman: "No formal requests being made, formal hearings were not held, as is the usual procedure; but the proposed legislation was openly discussed in committees, such discussions being open to the public, and various interested groups appeared before the committees including representatives of the grocery, pharmacy, hardware and clothing interests * * *. The consuming public was informed concerning the provisions of the bill through editorials in various newspapers which for the most part were in opposition to the bill * * *. The bill was thoroughly discussed on the floor * * * and was passed by the House of Delegates * * * with a vote of 70 to 14."

The bill passed the Senate by a vote of 26 to 1 "after adequate consideration."

South Dakota.

Affidavit of the Honorable K. J. Morgan, State Senator: "(The) Judiciary Committee (of the Senate) gave (the Fair Trade bill) public hearings and due consideration at regular hearings of the said committee, held upon due notice in accordance with rules and regulations * * * all of which hearings were open to the public and held in the court room of the Supreme Court of the State of South Dakota; that after discussion of the said * * * bill on several and diverse occasions and having given the same due study and debate, the same was reported out of said committee * * * by a unanimous vote thereof * * * with the recommendation * * * that the said bill 'do pass' * * *. Several of his brother Senators discussed upon the floor the merits and demerits of the bill." The bill was passed in the Senate by a unanimous vote.

Affidavit of Earl Erlandson: "Hearing (on the Fair Trade bill) was had in the regular committee room as used by the State Affairs Committee (of the House of Representatives), and upon due and public notice of the chairman * * * that (the bill) would be given public hearings * * *. Said Committee on State Affairs, by its chairman, C. T. Bates, and after public hearings held before the said committee and with the approval and consent of the said committee * * * reported the said Senate bill * * * with its recommendation that said bill 'do pass'." The bill thereafter passed the House by a vote of yeas 92, nays 6.

Florida

Affidavit of R. Q. Richards: "The Florida Fair Trade Act * * * was passed after open and complete debate at public hearings. The vote in the House of Representatives * * * was 62 in favor of, and 28 opposed * * * in the Senate * * * being unanimously in favor * * *."

Telegram from the Honorable Spessard L. Holland, Governor of Florida: "Public hearings largely attended were held during both the 1937 session of the Florida legislature which passed the Florida Fair Trade Act and the 1939 session which amended the act."

Connecticut

Affidavit of Hugh P. Beirne, Secretary of the Connecticut Board of Pharmacy Commissioners: "A public hearing, with eight hundred persons in attendance, was held at the State Capitol in Hartford, on March 22nd, 1937. The lower house of the legislature passed this bill, 146 to 91, on May 5th, 1937 * * *. From the date of the introduction of this legislation in February until its effective date, the press of the state gave the public wide coverage of publicity."

North Dakota.

Affidavit of Dan W. Hall: "That legislative committees did conduct public hearings and did give both the proponents and any opponents full opportunity to be heard before the said act was passed. That information to the public pertaining to the introduction and passage of this act was carried by newspaper publications and by radio throughout the State of North Dakota."

Maine.

Affidavit of the Honorable Phidelem S. Demers, Member of the Legislation: "In 1937, I was a member of the Maine state legislature which enacted the Fair Trade law so-called. That a public hearing was held on the bill, that the hearing was advertised in at least two Maine daily newspapers and that the hearing was well attended * * *. That there was at least one editorial in the Portland Press Herald in opposition to the bill."

Affidavit of George O. Tuttle: "I * * * attended the hearing (on the Fair Trade bill) at the State House, which was advertised according to the Orders of the Legislature in all the leading daily newspapers in the state as was the custom that the hearing was well attended * * *; that there was nothing clandestine in the preparation or presentation of this bill, * * * that there was nothing in any of the proceedings irregular and everything had the general approval of the committee and the legislature."

Oklahoma.

Affidavit of Thomas Roach: "The Senate Committee held a public hearing on the bill, at which a number of people were heard, both for and against the bill. The principal opponents at that time, and later, were representatives of the State Press Association. It was allowed to die on the calendar. It was again introduced (two years later) in the Sixteenth Legislature as Senate Bill #45, and a

public hearing was held by the Senate * * * at which both sides were heard. This hearing was well advertised, and drew a considerable number of people * * * the Oklahoma Press Association did oppose it at the hearing. The bill was favorably reported by the Senate Committee, and was discussed on the floor of the Senate some two weeks later * * *. At no time was there any disposition or desire on the part of those proposing this legislation to hurry it through the law-making bodies, and the fact that the session of the legislature which made a law had it under consideration from the 25th of January until the 22nd of April, certainly shows that its enactment was not rushed in any way."

Affidavit of Hon. Elbert R. Weaver, Member of the Oklahoma Legislature: "After two public hearings the bill reached the Senate Calendar with a do pass recommendation. Due to the organized opposition of the state press association, it failed to pass. The bill was again introduced in the 16th session * * * and again a public hearing was held on the measure * * *. The state press association fought it bitterly * * *. The chief opponents of the measure were the large metropolitan papers * * * publicity was wide as to the effects of the measure but it passed the Senate with a majority of 34 votes of the 44 members which constitute the Senate. It went to the House of Representatives where it received a majority vote of 79 to 19. The Honorable E. W. Marland, being governor of Oklahoma at that time, ordered his legal adviser, Judge T. B. Lunsford to make an extensive study of the effects of the measure and during that time the principal opposition was the metropolitan press who urged a veto."

Massachusetts.

Affidavit of Samuel Silverman: "A public hearing was held in the legislature on these bills and many persons were heard pro and con * * * that the bill was opposed in public hearing by representatives of the department stores group who were heard at length and who quoted from the statements made by Q. Forrest Walker, economist of the Macy Stores of New York; that after a hearing lasting for several hours, a recess study of the bill was recommended by the legislative committee, but instead the bill was adopted by both the House of Representatives and the Senate, and approved by the Governor after receiving communication from the Department Stores Association opposing the same; that the Governor of the Commonwealth, Honorable Charles F. Hurley, notified the several petitioners that he was glad to approve the bill as he believed it to be in the best interests not only of the retail merchants of the state, but of the buying public as well * * * that no attempt has been made in this Commonwealth to repeal or in any way interfere with the Fair Trade law of this state; that the original legislation and the amendments received newspaper publicity both as to hearing and as to result, and that during the pendency of these bills which were on the legislative calendar for over three months, various newspaper publications throughout the Commonwealth were made and editorial comments, both pro and con were made by the public press."

Michigan.

Affidavit of Otis F. Cook: "Two hearings were conducted on the measure at which were represented many different lines of retail industry as well as farmer cooperative groups. There was no opposition to the bill expressed at these hearings, however the farmer cooperative groups did offer an amendment to the bill which was adopted by the Committee * * *. The bill was passed by the unanimous vote of the House of Representatives * * *. The bill was referred to the State Affairs Committee of the Senate and there it was * * * again subject to two hearings * * *. During the passage of this bill, 103 days elapsed and the public press of the state, as well as other reporting agencies carried full particulars regarding the provisions of the bill * * *. Not one dissenting vote was cast on the measure in either the House of Representatives or the Senate."

Mississippi.

Affidavit of S. B. Key: "A public hearing was had * * *. This bill was before the Senate and House two months and fourteen days * * * and met defeat on one occasion. Considerable publicity was given on this measure."

Alabama.

Affidavit of Thelma Morris Coburn: "An open hearing before the House Judiciary Committee was held on January 26 affording proponents and opponents an opportunity to express their views on the bill * * *. On February 9 an open hearing on the proposed bill was held by the Senate Judiciary Com-

mittee affording proponents and opponents an opportunity to express their view on the bill."

Maryland.

Affidavit of Simon Solomon: "(In 1935 the first Maryland Fair Trade bill) was referred to the Committee on Judiciary of the House of Delegates, which held full hearings on the bill; that at said hearings the following groups were heard in support of the bill: the retail grocers' association, retail confectioners', retail tobacco association, and the Maryland Pharmaceutical Association. A representative of the Retail Hardware Association was unable to appear, but this group was also in favor of the bill.

"Several persons claiming to represent consumers were heard in opposition to the bill; that after said hearing the bill was favorably reported by the Committee and passed the House of Delegates without a dissenting vote. * * *

"(The Senate Committee on Judicial Proceedings) also held a hearing on the bill * * *. The bill was favorably reported by said committee and passed the Senate * * * by a vote of 22 to 4.

"That a hearing was held on the bill by the Governor, who signed it * * * that during the pendency of the bill in the legislature, it was given full publicity in the daily press.

"(The bill for the Fair Trade Act of 1937, repealing and re-enacting the 1935 law) was referred to the Committee on Judiciary of the House of Delegates, which after a hearing reported it favorably; that it was passed by the House of Delegates * * * without a dissenting vote; that in the State Senate it was referred to the Committee on Judicial Proceedings, who reported it favorably * * *; that the bill passed the Senate without a dissenting vote * * *.

"In the session of the General Assembly of 1939, a bill * * * was introduced * * * to repeal the Fair Trade Act * * *; that the said repealer was referred to the Committee on Judiciary of the House of Delegates but said committee took no action thereon and the bill died in committee; that since the introduction of the first bill at the 1935 session of the General Assembly, there has been wide discussion of the legislation both in the daily press and elsewhere, both favorable and unfavorable, and the merits of the legislation were fully and fairly debated in the legislature before the legislation was enacted.

"In 1938, just prior to the opening of the 1939 session of the Maryland legislature, there was an attempt by a consumers' group among which there were several representatives of the government, who claimed however that they were not acting in an official capacity, to induce the members of the legislature from Montgomery County to introduce a bill to repeal the Maryland Fair Trade Act. Fortunately, a hearing was held before an influential civic organization of Montgomery which was composed of outstanding men in the community. Both sides presented their arguments which consumed about four hours, with the result that the matter was evidently dropped as no effort was made by the representatives of Montgomery County to repeal the act.

"As mentioned previously, in 1939 a bill was introduced by a member of the House of Delegates at the request of a consumers' organization to repeal the Maryland Fair Trade Act. A hearing was held before the Committee on Judiciary, and approximately two hundred and fifty persons were present. For the opponents, in addition to counsel, about seven speakers, including representatives of labor, farm groups and others, pleaded for the repeal of the act. Speakers for the proponents were representatives of the grocers', tobacco, hardware, confectioners' and druggists' associations. The Committee on Judiciary of the House of Delegates failed to bring out a report. * * *

"The Maryland public has certainly been kept well informed, as this was an outstanding issue of the recent Tydings-Lewis senatorial campaign. The Maryland Fair Trade Act and the Tydings-Miller Enabling Act both were bitterly attacked over the radio and the newspapers by Mr. Lewis and his supporters. In spite of this, Senator Tydings was re-elected by the largest majority ever given to any candidate in Maryland.

"In conclusion, I defy anybody to prove that lobbyists were employed by the retail druggists or any other organization to have this legislation enacted in Maryland, or that one red cent was spent either directly or indirectly for this purpose."

LETTER FROM THE DEPARTMENT OF JUSTICE IN REPLY TO BRIEF SUBMITTED BY
THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTSDEPARTMENT OF JUSTICE,
Washington, D. C., March 8, 1941.MR. DEWEY ANDERSON,
Executive Secretary, Temporary National Economic Committee,
Washington, D. C.

DEAR MR. ANDERSON: The Department has been asked to comment upon the brief submitted to the Temporary National Economic Committee by the National Association of Retail Druggists in answer to our recommendation that the Miller-Tydings Act be repealed.

The memorandum in support of our recommendation was based upon both legal and economic considerations. Its principal points were as follows:

1. Collusion among competing retailers in violation of the antitrust laws has been an indispensable part of the movement for resale price maintenance to such an extent that if we had men and money available to prosecute such activities systematically most existing systems of resale price contracts would be subject to prosecution.

2. The machinery of resale price contracts affords an easy means by which manufacturers may unite in horizontal price fixing conspiracies by making identical contracts with retailers.

3. The power given by law to coerce non-signers to abide by the terms of resale price contracts destroys competition among retailers as effectively as would an unlawful conspiracy.

4. Drugs under resale price contract have risen sharply in price in the large centers of population and have fallen slightly elsewhere. The literature of the drug trade indicates an intention to drive all contract prices higher.

5. Competition among distributors on a basis of efficiency is impossible in the sale of commodities covered by these contracts.

6. Although resale price legislation was presented to the public as a defense of the small retailer against the chains and to the courts as a protection of the manufacturers' good will, the legislation actually has served the interests of the chains and has had their support; and the so-called protections have been imposed upon many manufacturers by the pressure of retailers.

7. Private pressure groups used misrepresentation and intimidation of newspapers in their efforts to win support for resale price maintenance laws, and succeeded in getting these laws enacted without adequate consideration.

The reply brief of the National Association of Retail Druggists is a formal statement from the official representatives of the group which has been the principal support of resale price laws. This brief contains internal evidence that it was prepared with effort and care. Presumably this document offers a rejoinder to every point upon which its authors thought an effective reply could be made. It is, therefore, particularly significant that a large part of our memorandum has evoked no reply. The nature of the reply on each point will be discussed below.

1 and 2. The association's brief makes no mention of the charge that unlawful collusion has been typical in the development of resale price contracts. The passage which comes nearest to dealing with this point is introduced by the statement, "Prices in a privately operated economy are necessarily fixed by somebody, hence the charge that fair trade statutes permit private price fixing loses its point." The discussion which follows this statement, however, deals with the fixation of the resale prices of various druggists by the same manufacturer, and hence is not pertinent to the charge of unlawful collusion among manufacturers and among retailers which is contained in our memorandum.

Assuming that there can be no collusion among manufacturers, the association offers competition between brands as an adequate protection for the consumer. Monograph No. 1, prepared by the Department of Labor, shows the inadequacy of interbrand competition to give the consumer a reasonable price upon certain drug items.

Moreover, as a practical matter it is usually impossible for a manufacturer to issue resale price contracts unless he has either a substantial monopoly, a brand so strong as to be removed from effective competition, or a collusive agreement with his competitors. The following statement by a manufacturer of certain school supplies summarizes the situation:

"* * * * We would welcome the opportunity to apply quantity resale prices on all the items of both loose leaf and blank book lines as we have done in California but at the moment this seems impossible unless the other competing manufacturers adopt similar policies. Until such time, therefore, as this is done we can only embrace the opportunities which the law gives us to the extent of covering

those non-competing items in our line which would not be seriously affected by the foot loose and fancy free prices of competing items of the other manufacturers."

3. A large part of the association's brief consists in a legal argument designed to show that the non-signer clause in state laws, which prevents retailers who are not parties to resale price contracts from selling merchandise below the price named in such contracts, is consistent with the principles of the common law.¹ In connection with this argument the brief asserts that we have misstated the character of the state legislation by describing this clause as a means of fixing the resale prices of competitors against their will. Our alleged misrepresentation consisted in describing the effect of the state laws as coercion of non-signers, instead of spelling out the fact that this coercion is accomplished by granting persons allegedly injured the right to sue or enjoin any person who inflicts the so-called injury by selling his own goods at his own prices. The association is interested in the technical legal path by which the result is obtained. We are interested in the fact, not disputed in the association's reply, that competing retailers are bound against their will not to sell their own merchandise at prices lower than two private citizens may choose to establish by private contract. That retail competition is thereby destroyed is recognized in the association's brief itself in the statement: "The new manufacturer-manufacturer price competition is much more beneficial to the great body of consumers than the retailer-retailer competition which prevails in non-fair trade markets."

4. The association's rejoinder to our statements about the effect of resale price contracts upon prices consists in a summary of a study made by a professor at the University of Minnesota under the auspices of the association itself. This study was preceded, and to some extent was accompanied, by comments in the drug journals which indicated to the drug trade generally that the interests of the trade would be served by a demonstration that drug prices had not risen. The questions of accuracy and emphasis which are raised by an investigation made with information voluntarily supplied under such auspices are serious; and they are not adequately dealt with by the association's comment that the professor who was in charge is a man of personal integrity.

Our conclusions about drug prices were based upon a series of studies, some of them by independent scholars who had no interests at stake, and one by the Department of Labor under the auspices of the Temporary National Economic Committee itself. In view of the fact that the persuasiveness of each study is limited either by its scope or by the auspices under which it was conducted, we confined our conclusions to those which appear to be supported by all of the studies, including that upon which the association relies. We supplemented our statement, however, by summarizing the evidence in drug journals and in statements of responsible officials of the National Retail Druggists Association that the present level of prices is not regarded by the drug trade as satisfactory, but merely as a step in a gradual price increase.

5. The association's brief makes substantially no comment concerning our statement that resale price contracts have the effect of preventing competition on the basis of efficiency. Its rejoinder is limited to the contention that gross margins under these contracts are generally lower than average operating costs in the most efficient stores. In support of this proposition the association presents average chain store operating costs as reported by the Federal Trade Commission investigation made between 1930 and 1934. Our memorandum pointed out that the general use of resale price contracts must necessarily raise costs in drug stores by making their competitive success depend upon expensive sales techniques rather than upon low prices; that during the depression certain sorts of independent stores developed techniques for distributing packaged drugs at lower prices and presumably at lower costs than chain stores; and that the druggists intend to obtain larger margins and higher contract prices upon drugs as rapidly as possible. The relation between present prices and past average operating costs in chain

¹ The association's contention as to the common law is that a non-signer who sells a trade-marked commodity he owns at a price satisfactory to himself is inflicting the same kind of injury upon a signer as is any third party who inflicts injury by attempting to induce a breach of contract; and that the power to bind one's competitors by the terms of a contract they have not signed is analogous to the power to impose upon the use of a commodity conditions which apply not only to the buyer but also to anyone who subsequently purchases from him. Both analogies are weak. The sale by a merchant of a commodity at a price which he himself has determined to be fair is not the kind of intentional or malicious act which the common law commonly regarded as tortious, and the citations in the association's memoranda fail to support a contrary view. The second analogy ignores the fact that, generally speaking, the common law has frowned upon restrictions upon the alienation of chattels. Only in exceptional circumstances are such restrictions permitted. But all of this is beside the real point at issue, which is not a legal technicality but a public policy.

stores has little relevance to a statute which tends to raise both costs and prices and to destroy concerns with costs lower than those mentioned.

Moreover, an argument based upon averages necessarily ignores the fact that the faster moving lines of packaged drugs can be distributed profitably at much less than average cost and that some of these products are now being sold at contract prices which guarantee a markup far above the average. The public must be interested, not only in the preservation of efficiency and of low-cost distribution among drug stores in general, but also in the distribution of each important drug product as efficiently and with as low a cost as possible.

The last page of the association's memorandum concedes "that price reductions brought about by increased efficiency are economically desirable." It offers no suggestion as to how increased efficiency on the part of any retail druggist can be passed on to the consumer upon any product which is subject to a resale price established in a contract with some other druggist. However, the brief's concession about efficiency probably was not intended to carry much emphasis. When not engaged in public controversy, the spokesmen of the drug industry speak differently about this matter. An appendix to our memorandum quotes the chairman of the druggists' National Advisory Fair Trade Committee to the effect that the resale price laws "to a great extent eliminate price competition between retailers, where there is no economic or logical justification for it" and quotes the vice president of E. R. Squibb & Sons as saying, "If some large retailer or wholesaler is more efficient than his smaller competitors—as he claims he is—then he should certainly be able to operate even more successfully on a basis of parity in price, and not set up a hue and cry for advantage over his smaller competitors."

6. The association's brief contains no denial of our statement that resale price laws were supported by the chains and have proved in practice serviceable to the chains. The statements which come nearest to a discussion of this matter are that loss leaders can be used effectively by chains and mail order houses but not by independent merchants and that the laws are designed to protect independents against loss leaders. The Department of Labor has already pointed out in reply to another memorandum by this association that resale price laws are not designed to attack loss leader selling. A statute which permits a private contract to set a floor for prices at any level satisfactory to the contracting parties can scarcely be justified on the theory that it is necessary to prevent the sale of the commodity at a very low level. The loss leader issue might be appropriately discussed in connection with a statute directed against sales below cost, but it is not appropriately discussed here.

Our statement that the effort to pass resale price legislation involved misrepresentation and coercion was supported by instances of attempted intimidation of three newspapers and a magazine and by a description of various activities undertaken by pressure groups. Our statement that efforts were made to intimidate manufacturers into supporting this legislation and issuing contracts under it was illustrated by the notorious Pepsodent case, by a boycott of a branded aspirin, by pressure brought to bear upon liquor manufacturers, and by various passages from trade journals in the drug industry and elsewhere. The association's rejoinder as to attempts to throttle public discussion and to intimidate business enterprises is a blank denial, accompanied with an assertion that we offered no evidence.

Our statement that consistent efforts were made to misrepresent the character of proposed resale price legislation was based upon several points: 1. This legislation was presented as an attack upon loss leaders, although it actually prevents profitable sales if they are below contract prices. 2. It was urged on the ground that the existence of the small retailer was at stake whereas the number of independent retailers was increasing. 3. It was described as a measure directed against the chain stores and not as one having chain store support. 4. Systematic efforts were made to divert attention from the coercive features of the legislation and to describe the state laws as though they merely sanctioned voluntary contracts. 5. Efforts were made to disguise the fact that this legislation had few backers outside the drug trade. Our statement that the resale price laws received inadequate consideration was supported by the facts that an error which converted one of the most important substantive provisions into nonsense was incorporated in the statutes of eleven states before it was caught and corrected and that another error, less serious, was incorporated in the laws of seventeen states; by the fact that the Judiciary Committee of the House of Representatives described the state laws in its report upon the Miller-Tydings Bill in language which omitted the coercive features of these laws; and by the statement that only three out of the first 32 states to pass resale price laws held public hearings upon them. The

association's brief ignores most of these points. However, the association presents an array of affidavits designed to show that there were public hearings in a considerable number of states and that representatives of retail groups other than organized druggists supported the bill. Our statement that hearings were held in only three out of the first 32 states was based upon uncontradicted testimony before a Congressional Committee during consideration of the District of Columbia resale price bill, which was reprinted in a statement of minority views prepared in that committee and was not contradicted, so far as we are aware, at a subsequent hearing nor in subsequent reports. Although the affidavits submitted by the association are based upon a very generous interpretation of the term "hearing," and include instances which are obviously open to question,² it appears clear that hearings were held more frequently than is asserted in the testimony upon which we relied. We are glad to correct our statement in this respect.

The comments indicating public statements in support of resale price laws by certain other retail organizations are consistent with the statement in our memorandum that efforts were made to prevent the bill from appearing to be a druggists' measure. The brief does not seriously attempt to contradict the frequently repeated statements by officials of the association which submitted it that the impetus for the resale price laws came from organized druggists.

In addition to the matters discussed above, the association's brief insists that questions of resale price maintenance are essentially intrastate even though they may be technically in interstate commerce. This argument appears to rest in part on the premise, suggested but never clearly stated by the Association, that the Supreme Court of the United States has erroneously interpreted the commerce clause of the Constitution so as to include matters within its scope which, in fact, are intrastate in character. Extended comment on this assumption is unnecessary. The argument also rests in part on assertions that the final sale which the laws control is in each case made locally in some State. The final use or disposition of any commodity which moves across a State line is always accomplished in some particular locality. If the Association's contention in this respect is sound, there can be no such thing as an interstate sale, and Federal jurisdiction must necessarily be confined to the physical movement of goods across State lines and to commerce in the Territories and the District of Columbia. From an economic point of view this contention is absolutely without substance. So far as its legal aspects are concerned, the argument proceeds in defiance of fifty years of constitutional history.

The Association's entire argument on this point ignores the real issue. We suggested that the Miller-Tydings Amendment be repealed not in any desire to interfere with the internal affairs of the States, but because it is our view that Congress under the Constitution has the power to determine what economic practices shall prevail in interstate commerce. In making that determination in each instance, Congress must necessarily use its own judgment as to the social benefits of particular economic policy. In any case in which it passes a law, such as the Miller-Tydings Amendment, which permits the policies of the several States to extend to transactions in interstate commerce, we assume that it is not only proper but necessary for Congress to consider the character and consequence of the substantive State legislation which is thereby given Federal effect. By raising the cry of States' rights the Association is introducing a false issue into the discussion and is obviously seeking to supply whatever defects its arguments may have from an economic point of view by the invocation of local sentiments which have no real relevance.

In summary, the points upon which we based our recommendation have scarcely been questioned by the National Retail Druggists' Association. We renew our recommendation that the Miller-Tydings Amendment be repealed.

Very truly yours,

(Signed) THURMAN ARNOLD,
Assistant Attorney General.

² The statement concerning Colorado, for example, indicates that the official journals are silent as to any hearings, but that the writer is "reliably informed" that the chairman of one of the committees called an open meeting. The statement concerning West Virginia says that there was no hearing but that the bill was "openly discussed" in the committees. The statements concerning North Dakota and Mississippi likewise indicate that there is no official record of a public hearing, but each asserts that the writer appeared before one. The statement concerning Wyoming says that a one-day hearing was held at a hotel in Casper, but contains no indication of how it happened that the hearing was not held at the capital, Cheyenne. The North Carolina hearing was held five days after the introduction of the bill, and, as might have been expected with such a time interval, opposition did not appear. No attempt has been made at a complete analysis of the affidavits and statements.

LETTER FROM THE BROTHERHOOD OF RAILROAD
TRAINMEN

IN REPLY TO STATEMENT OF THURMAN ARNOLD,
ASSISTANT ATTORNEY GENERAL, UNITED STATES
DEPARTMENT OF JUSTICE, REGARDING RESTRAINTS
IN TRADE, WITH PARTICULAR REFERENCE TO LABOR
UNIONS. (FINAL REPORT AND RECOMMENDATIONS
OF THE TEMPORARY NATIONAL ECONOMIC COMMIT-
TEE, S. DOC. 35, 77TH CONG., 1ST SESS., PP. 164-181.)

GRAND LODGE

BROTHERHOOD OF RAILROAD TRAINMEN

General Offices, Cleveland, Ohio

FEBRUARY 18, 1941.

MR. DEWEY ANDERSON,
*Executive Secretary, Temporary National Economic Committee,
281 Apex Building, Washington, D. C.*

DEAR MR. ANDERSON: I am in receipt of your letter of February 13th, enclosing a statement of Mr. Thurman W. Arnold on the application of the anti-trust laws to labor unions, which was made before the Temporary National Economic Committee. In response to your kind invitation, I offer the following brief comments.

Discussing "types of labor restraints which the department does not consider to be exempt from the Sherman Act under decision in the *Hutcheson* case", Mr. Arnold cites the so-called "make work system"—that is, the practice whereby unions allegedly "require the hiring of unnecessary labor"—and says:

"No conceivable economic justification for it comes to our minds."

That sentence contains the clue to Mr. Arnold's whole philosophy governing the enforcement of the antitrust laws, particularly as regards labor.

Mr. Arnold desires to eliminate certain labor practices, because, in his opinion, they are evil per se and, furthermore, come within the scope of activities banned by the antitrust laws. In his opinion, a jurisdictional dispute was in this category, but, much to his chagrin, the Supreme Court ruled otherwise. Ominously enough, however, Mr. Arnold's spanking at the hands of the judiciary has caused him to issue a defiant ultimatum that prosecutions will be pressed against labor organizations engaged in certain other activities which he believes are *economically unjustifiable*. There lies the rub.

Is it not a perversion of our form of government for an employe of the executive branch to assume the prerogatives of Congress and, by strained interpretation of the statutes, in effect legislate on complex, social and economic problems? Obviously, in fixing standards, opinions may vary as to the degree of evil inherent in any situation; that is the reason why we rely upon the collective judgment of our duly elected representatives in Congress.

While the Brotherhood of Railroad Trainmen is not involved in any of the antitrust suits prosecuted by the Department of Justice, we fear that our activities relating to the promotion of safe working conditions, through legislation requiring railroads to employ full crews and limiting the length of trains—objectives which are labeled "make work legislation" by Wall Street propagandists—might cause Mr. Arnold to hail us into court to answer for our "Sins". Our fears are justifiable, because we have no assurance that his economic philosophy is not wholly "out of joint".

To permit an individual to exercise his caprice in the matter of applying the antitrust laws to labor situations not contemplated by legislators is to pave the way toward dictatorship. If Mr. Arnold sincerely believes that certain practices of labor unions should be modified or eliminated, let him seek membership in Congress, or at least promote his program via the legislative channels of government, rather than attempt to gain his ends through judicial interpretation.

Organized labor seeks no special favors from society. Unionism is democracy. Its faults can be corrected through democratic means. If any of its practices cannot be justified economically, then the remedy lies in the processes of collective bargaining, not in criminal prosecutions instituted by the Department of Justice.

With best wishes, I am

Sincerely yours,

(Signed) A. F. WHITNEY, *President*.

LETTER FROM THE AMERICAN FEDERATION OF LABOR

IN REPLY TO STATEMENT OF THURMAN ARNOLD,
ASSISTANT ATTORNEY GENERAL, UNITED STATES
DEPARTMENT OF JUSTICE, REGARDING RESTRAINTS
IN TRADE, WITH PARTICULAR REFERENCE TO LABOR
UNIONS. (FINAL REPORT AND RECOMMENDATIONS
OF THE TEMPORARY NATIONAL ECONOMIC COM-
MITTEE, S. DOC. 35, 77TH CONG., 1ST SESS., PP. 164-181.)
ALSO REJOINDER BY CORWIN D. EDWARDS, ECONOMIC
CONSULTANT, DEPARTMENT OF JUSTICE

AMERICAN FEDERATION OF LABOR,
Washington, D. C., February 19, 1941.

Mr. DEWEY ANDERSON,
Executive Secretary, Temporary National Economic Committee,
281 Apex Building, Washington, D. C.

DEAR MR. ANDERSON: I thank you kindly for your letter of the 13th wherein in you bring to my attention the statement of Mr. Thurman Arnold made to the Temporary National Economic Committee last Thursday.

The Executive Council of the American Federation of Labor in session now at Miami have before them Mr. Arnold's statement and took official action on the same.

Enclosed herewith please find copy of the reply to Mr. Arnold's statement by the Executive Council of the American Federation of Labor adopted February 19, 1941.

Enclosed herewith is the report of the Executive Council to the convention of the American Federation of Labor held in New Orleans last November. This report will be found in the bound proceedings of the convention on pages 143 to 153; also recommendations of the Resolutions Committee on this report made to the New Orleans convention and which appears in the bound proceedings of the convention on pages 555 to 558. As you will observe, the recommendations were unanimously adopted.

I desire that you will incorporate the report and recommendations as part of the reply to Mr. Arnold's statement.

Sincerely yours,

(Signed) WM. GREEN,
(Typed) WILLIAM GREEN,
President.
AMERICAN FEDERATION OF LABOR.

W.G.M.
Enc.

ANALYSIS OF THURMAN ARNOLD'S STATEMENT MADE BEFORE T. N. E. C. ON FEBRUARY
13TH, 1941

The American Federation of Labor has received the statement of Mr. Thurman Arnold and unqualifiedly condemns it as subtle propaganda for the promotion of anti-labor legislation based upon distortions of facts and law. Its conclusions are false and unfounded and are aimed at the destruction of free labor although engaged in lawful pursuits.

Mr. Arnold's statement reflects his determined effort to resist the clear mandate of the Supreme Court as expressed in the *Hutcheson* decision. Although he admits that the decision "casts doubt upon the applicability of the anti-trust laws" to labor union activities which the Anti-Trust Division condemned at the outset of its campaign against labor, the main thesis of his statement is that the decision leaves intact the entire prior proclaimed program of the Anti-Trust Division except that small portion which is directed specifically to prosecutions of jurisdictional disputes. This is accomplished, as will be shown, by a mangled interpretation of the Court's decision.

In a few introductory remarks Mr. Arnold reiterates his friendliness to organized labor, asserts his opinion that "labor unions with the guaranteed right of collective bargaining are essential to the working of our modern industrial economy," and his belief that "a strong labor movement is necessary to maintain social justice."

Thereafter he lists the character of cases which according to standards set by himself constitute a criminal code:

1. Cases in which a labor union alone or in combination with other groups has imposed and maintained artificially fixed prices to consumers.
2. Cases where labor either alone or in combination with other groups has attempted to keep more efficient methods or techniques out of the market.

3. Cases where labor either alone or with other groups has restrained trade for the purpose of completely excluding from a particular locality materials made elsewhere.

4. Cases where labor organizations have restrained trade for the purpose of destroying an established and legitimate system of collective bargaining.

He argues that these are unreasonable activities because they have "no connection with wages, hours, health, safety, or the right of collective bargaining", and makes the amazing statement that he has heard no one "assert that any of the above named activities of labor unions have any economic justification or any long run advantage to labor as a whole."

There follows a discussion of the *Hutcheson* decision, which is concluded by an attempt to justify the bringing of the initial prosecution on the basis of the dissent of two Justices of the Supreme Court. His concluding observation is most revealing. He says, "This decision rests *solely* on an interpretation of the policy of Congress. It does not appear to settle the economic or social problems raised by the jurisdictional strike". The implication is clear that the Anti-Trust Division conceives it to be its duty to settle the economic or social problems thus usurping the power expressly conferred on Congress by the Constitution. This bold implication becomes stronger upon an analysis of the remainder of the statement.

In discussing what he understands to be the limitations which the *Hutcheson* decision "puts on the anti-trust enforcement with respect to restraints * * * by a labor organization", Mr. Arnold refers to (1) the compulsion to dismiss the indictment against the Longshoremen and Teamsters in New York, and (2), the distress to the CIO Construction Workers Union in St. Louis because of a boycott imposed by the American Federation of Labor Building Trades Council, and concludes that the power given labor organizations as a result of the decision "leads inevitably to labor dictatorship."

He discussed the New York indictment so as to put the Longshoremen and Teamsters unions in a most unfavorable light. After painting as black a picture as possible, he states that the "situation is put beyond the reach of any law by the *Hutcheson* case." In truth, if the facts were half as bad as he set them forth to be, there are many laws other than the Sherman Act that are applicable and provide remedies. Labor spokesmen who have criticized the recent policy of the Anti-Trust Division have never urged that labor organizations or officials who commit offenses are beyond the pale of the law. They have merely objected to the perversion of a particular law, namely, the Sherman Act, whose proved past distortion has served as a vicious anti-labor weapon. Labor's objections have been fully sustained by Congressional enactments and the recent decision of the highest court in the land.

Three reasons are set forth explaining why the power granted labor unions as a result of the decision "leads inevitably to labor dictatorship." First, is the wholly illogical reason that "if the employees in a plant want a small union they cannot have it." This is manifestly without foundation in fact. Without remarking the apparent concern on the part of Mr. Arnold for inside or company unions, it is clear that there is nothing in the *Hutcheson* case which takes from employes their right to join any union, be it small or large.

The second reason given by Mr. Arnold is set forth as follows.

"The right of workers in any particular plant to a union of their own choice—a right guaranteed by the National Labor Relations Act—is impaired or destroyed. No matter how enthusiastic the workers may be for a particular union, that union cannot prevail against one which is larger, possesses more powerful economic alliances, and is prepared to make ruthless use of its economic power."

This assumes, what cannot conceivably be proved, that every Union which is engaged in a jurisdictional dispute "is prepared to make ruthless use of its economic power." Nor does this asserted reason appear to be consistent with the previously announced espousal of "a strong labor movement." Mr. Arnold's thesis simply means that there must not be large, strong labor unions regardless of the large number of craftsmen or workers engaged in a particular craft or employment who have organized under one international.

The third asserted reason reads as follows:

"Once a union is forced on the employes in a particular plant by the victor of a jurisdictional controversy, they have no power of effective protest

against arbitrary dues, unfavorable wage contracts, or arbitrary leadership, since they will not be permitted to join another union."

In this connection Mr. Arnold refers to a recent controversy between the Musicians Union and the Artists Guild. We shall discuss that specific case later. But Mr. Arnold's theory is no more than the usual reactionary condemnation of the closed shop. But the statement is worth further discussion, because it fully reveals the confused thinking of its author.

One of the main reasons why organized labor insists upon the right to "destroy an established system of collective bargaining" is precisely because it can thereby retain "the power of effective protest against arbitrary dues, unfavorable wage contracts, or arbitrary leadership." Mr. Arnold here shows the utter weakness of his entire approach to the problem. Under his theory all jurisdictional disputes must be condemned as violations of law. Once the employer recognizes or deals with a particular union, other unions are to be foreclosed from exercising economic and social pressure against that bargaining relationship. It does not matter to Mr. Arnold that the bargaining union has negotiated an unfavorable wage contract or imposes arbitrary dues or arbitrary leadership. The dissatisfied workers must not leave the recognized union, they must not protest, they must not strike. If they do they are to be criminally punished.

It is worthy of note that Mr. Arnold devotes almost half of his statement to a discussion of the Hutcheson decision and its implications in terms of social injustice and economic waste, despite his observations that "it is not our function to criticize the majority in the Hutcheson case." While the court interprets the law Mr. Arnold tirades against it because of their refusal to accept his social and economic theories.

More important, however, is his discussion of the types of labor restraints which he claims are not expressly decided by the Hutcheson case and which he holds are still subject to prosecution. Here is evident a belabored attempt to misread the Supreme Court's decision and a zealous effort to pursue his ill conceived policy against labor.

He lists six such restraints:

1. The strike of one union against another union certified by the NLRB to be the only legitimate collective bargaining agency with whom the employer can deal.
2. Strike to erect a tariff wall around a locality.
3. The exclusion of efficient methods or prefabricated materials from building construction.
4. The refusal of unions to allow small independent firms to remain in business.
5. The activities of unions in imposing and maintaining artificially fixed prices to consumers.
6. The make work system.

It is readily observed by comparing this list with the list set forth at the opening of his statement, that all of these restraints come within the categories of restraints originally announced by the Anti-Trust Division as violations of the law.

The Anti-Trust Division obviously does not intend to be restricted by the Supreme Court of the United States. It proposes to go on prosecuting labor unions even though the Supreme Court has rejected the grounds on which the prosecutions are instituted.

The first type of restraint—namely, the strike of one union against another union certified by the NLRB to be the only legitimate collective bargaining agency with whom the employer can deal—is clearly within the same legal principles applicable to the jurisdictional dispute involved in the Hutcheson case. There is, from the point of view of the Sherman Law, no difference between a certification by the Labor Board than a contract with a rival union such as was involved in the Hutcheson case. A union certified by the National Labor Relations Board may certainly be guilty of negotiating an unfavorable wage contract or imposing arbitrary dues or arbitrary leadership. Moreover, many company unions cannot be proved under the limited scope of the Wagner Act to be company dominated, yet a group of workers may want a bona fide union to represent them. Unless bona fide minority groups have the right to announce their grievances to the world and win over the majority of the employees by peaceful persuasion and the like, then the cause of organized labor will be dealt a severe and unwarranted blow. In fact, the U. S. Supreme Court has held that minority groups cannot be denied the right to strike and picket, because such rights are constitutionally

guaranteed. Before the Hutcheson decision the Anti-Trust Division made no distinction in principle between jurisdictional disputes and efforts to dislodge certified unions. This separation and tortured refinement is a manifest attempt to evade the Hutcheson decision.

In declaring illegal "a strike to erect a tariff wall around a locality". Mr. Arnold is merely using colorful and appealing language to obscure his real aim. His illustrations prove that he considers it to be unlawful for labor unions to seek as much work as possible for their members. Surely it cannot be denied that efforts on the part of a labor union to increase the amount of work for its own members have a direct connection with wages. If the work is not obtained, then of course its members get no wages at all. It is indeed a unique proposition of labor economists that local trade unions situation is completely without merit, as will soon be shown.

The third restraint—namely, the exclusion of efficient methods or prefabricated materials from building construction—also seeks to prevent union resistance to situations which directly jeopardize the existence of the union and the welfare of its membership. "Prefabricated housing or cheaper materials" are frequently the product of non-union labor with low wage standards and sweatshop working conditions. The phrase "efficient methods" would certainly include devices like the speed-up. Surely unions may, in the language of Mr. Justice Brandeis "join in refusing to expend their labor upon articles whose very production constitutes an attack upon their standard of living." Are unions to stand by and do nothing to resist the further swelling of the ranks of the unemployed? Is the frightful human cost of technological advances to be borne solely by the working people? Does the Anti-Trust Division think that courts are the proper agencies to determine what is an efficient method?

Labor unions do not as a rule arbitrarily resist efforts by management to introduce necessary changes when management, in making the change, carefully considers the effect upon workers—their requirements and standards necessary for decent living. But management does not always do this. It is clear that neither the Department of Justice, nor the courts, nor management, are the proper judges of whether union action in resisting inroads upon their living standards is arbitrary.

Here too, as we shall soon show, the recent Supreme Court decision is determinative.

The fourth restraint—namely, the refusal of unions to allow small independent firms to remain in business—if also couched in language calculated to obscure. Standing unexplained, the statement means nothing. But the illustrations used reveal the true objective. It is the view of the Department of Justice that labor unions violate the law when they seek to eliminate or regulate such competitive threats as the "independent contractor" or the so-called "vendor system". All know that the vendor system has been greatly increased by many employers in recent years to accomplish two basic ends, (1) the breaking down of standards established by the effective collective bargaining of organized labor, and (2) to evade employer taxes and liability under Workmen's Compensation laws, the Social Security law, and the like. It is a rehabilitation of the sweatshop methods. These so-called independent contractors or vendors are in truth employees, and certainly competitors of employees. His profits are really wages. He is subject to the control and management of the employer. He succeeds only because he works longer hours and for less wages than the union employee.

In discussing this restraint Mr. Arnold expressly refers to the Milk Drivers situation in Chicago which has been the subject of two recent decisions. Although it is true that, as Mr. Arnold states, "the Supreme Court in *Milk Wagon Drivers Union vs. Lake Valley Farm Products Company* did not attempt to decide whether this was a violation of the Sherman Act or not," it is also true that in that decision Justice Black, writing for a unanimous court, made the following significant comment:

"* * * with the spread of this new competitive system the business of the dairies employing union milk wagon drivers decreased. Many of the union drivers lost their jobs and were dependent upon the union's relief funds and upon public relief agencies for their support."

And again, and even more pertinently, in view of Mr. Arnold's comments, the court said:

"To say, as the Circuit Court of Appeals did, that the conflict here is not a good faith labor issue, and that therefore there is no "labor dispute" is to ignore the statutory definition of the term; to say, further, that the con-

ditioned abandonment of the vendor system, under the circumstances, was in issue unrelated to labor's efforts to improve working conditions, *is to shut one's eyes to the every day elements of industrial strife.*" [Emphasis supplied.]

There can be no doubt in any disinterested mind as to the Supreme Court's view on this type of labor activity. Certainly it is no crime for organized workers to seek by peaceful means to eliminate this system which destroyed their very right to live.

The fifth restraint—namely, the activities of unions in imposing and maintaining artificially fixed prices to consumers—is, as stated, virtually meaningless. It assumes an artificially fixed price to begin with. The crux of the problem is, when are prices artificially fixed? Would it, for example, be an unreasonable restraint of trade for unions to enforce a price so as to maintain a living wage by cutting out sweatshop competition? Organized labor does not seek to impose artificially fixed prices on consumers. But in the Apex Case the U. S. Supreme Court has expressly legalized Labor's right to combine and even restrain competition for the purpose of increasing wages, shortening hours or improving working conditions. Quoting the court, it said, "In order to render a labor combination effective it must eliminate the competition from non-union made goods; an elimination of price competition based on differences in labor standards is the objective of any national labor organization."

The sixth restraint—namely, the make work system—is similar to most of the preceding restraints. As elaborated by Mr. Arnold, it is a restatement of his original intention to outlaw "the hiring of unnecessary labor." This is obviously fraught with danger to working people. Employers will claim that a few extra hours of work by a smaller number of employees renders useless and unnecessary a greater number of employees. Speed-up systems make "useless" the employment of larger numbers of employees. The Anti-Trust Division's attempted restriction is patently open to abuse. Like to many of the other restraints which the Anti-Trust Division feels still free to prosecute this union activity is clearly permissible under the doctrine of the *Hutcheson* case.

The basic holding of the *Hutcheson* case is that the Norris-LaGuardia Act gives full meaning to the original language and philosophy of the Clayton Act. That act was premised on the underlying conclusions that certain specified labor activities, regardless of their purpose, do not violate any law of the United States. This philosophy was the culmination of years of what amounted literally to persecutions of labor unions by courts that converted their own prejudices into rules of law. Different judges held different purposes or objectives of labor union activity to be lawful or unlawful, according to their own private economic bias and predilection. All this was clearly expressed by Justice Brandeis in his famous dissent in the *Duplex-Deering* case. He said:

"* * * It was objected that, due largely to environment, the social and economic ideas of judges, which thus became translated into law, were prejudicial to a position of equality between workmen and employer; that due to this dependence upon the individual opinion of judges great confusion existed as to what purposes were lawful and what unlawful; and that in any event Congress, not the judges, was the body which should declare what public policy in regard to the industrial struggle demands.

"By 1914 the ideas of the advocates of legislation had fairly crystallized upon the manner in which the *inequality and uncertainty* of the law should be removed. It was to be done by expressly legalizing certain acts regardless of the efforts produced by them upon other persons.

"The resulting law set out certain acts which had previously been held unlawful, whenever courts had disapproved of the ends for which they were performed; it then declared that, when these acts were committed in the course of an industrial dispute, they should not be held to violate any law of the United States."

The Court, in the *Hutcheson* case, expressly adopted that philosophy in the following language:

"* * * So long as a union acts in its self-interest and does not combine with non-labor groups, the licit and the illicit under Section 20 are not to be distinguished by any judgment regarding the *wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means* * * *."

Can it be seriously asserted that when a labor union seeks to maintain for its employees all the work available, or when it resists the introduction of cheaper materials and machinery which would displace employees, or when it attempts to eliminate the competition of independent contractors or vendors, or when it attempts to keep as many of its members on given jobs as it can—that under these circumstances a labor union is not acting “in its self-interest”? And if it is acting in its self interest—as most certainly it is—then regardless of whether the Anti-Trust Division considers the end of its activities wise or unwise, right or wrong, selfish or unselfish, the union may under the express language of the Clayton Act, as now interpreted by the *Hutcheson* case, engage in strikes, picketing, lawful assembly, persuasion, boycotts, and the like.

We return at this point to Mr. Arnold's nasty insinuation about the musicians' case. He neither states the facts accurately, nor are his conclusions fair or proper. The truth is that the American Federation of Musicians was in controversy with another union affiliated with the American Federation of Labor over a demand made by the Musicians Union that musicians join the union which the American Federation of Labor had conferred jurisdiction.

A musical artist is a musician and as such he is eligible to membership in the American Federation of Musicians which has complete jurisdiction over every class of musicians. All Mr. Heifitz was asked to do was to become a member of the union which had jurisdiction over musicians. He could do so or not as he pleased. It was Mr. Heifitz's right not to join the Musicians' Union if he did not want to, but by the same test of rights, it was the Musician's Union's right to inform all employers of musicians who had contracts with the American Federation of Musicians to employ only its members; that unless they did so its members could not work with non-union musicians. Mr. Heifitz, who had joined another union, (the Artists Guild) the members of which include singers, choristers and entertainers in night clubs, was not prevented from remaining a member of this union. Mr. Heifitz was not suppressed, or threatened to be suppressed, from appearing on the radio or from broadcasting, etc. No member of the Artists Guild has ever been so suppressed by the American Federation of Musicians. All the American Federation of Musicians has said is that its members cannot work with musicians who are not members of its union, but who are eligible to become so.

The issue in no manner involved the restraint of trade, and it is inconceivable how any unbiased person can bring it within the scope of the Anti-Trust laws. However, the most conclusive rejection of Mr. Arnold's interpretation of this case is the decision of the Court of Appeals in New York which upheld the contentions of the American Federation of Musicians. Your Committee is respectfully referred to this decision.

Mr. Arnold's statement concludes with the comment that he has no definite recommendation for legislation to make at the time because “other departments are primarily involved in the question of labor policy”. It is, we think, unfortunate that Mr. Arnold did not apparently solicit the advice of those departments “primarily involved in the question of labor policy” before he launched his unprecedented campaign. The Congress which makes our labor policy, as well as all other policies, expressly affirmed the right of labor unions to pursue by peaceful means their self-interest as late as 1935 when it declared in Section 1 of the Wagner Act that employees shall have the right “to engage in concerted activities for their * * * mutual aid or protection”, and this Mr. Arnold not only seeks to deny, but declares it to be a crime. The American Federation of Labor will continue to resist this perversion of the Anti-Trust laws by the Anti-Trust Division of the Department of Justice with all the power and resources at its command.

REPORT OF THE EXECUTIVE COUNCIL TO THE SIXTIETH ANNUAL CONVENTION OF
THE AMERICAN FEDERATION OF LABOR, NEW ORLEANS, LOUISIANA, NOVEMBER
18-29, 1940

LABOR AND THE ANTITRUST DRIVE

One of the unpleasant but most necessary tasks facing us is to report fully to organized labor concerning the stubborn, capricious and irresponsible drive against labor and unionism now being conducted by an agency of the Federal Government.

Professor Thurman Arnold, Assistant Attorney General in charge of the Anti-trust Division of the Department of Justice since 1938, has begun to wage the most complete and concentrated legal warfare against labor ever attempted by a government agency in America. Unless adequate measures are taken to cope with

this eccentric display of dangerous power, we may stand to lose the precious gains of sixty years of struggle for industrial democracy at a time when we could believe that government had accepted the active organization of labor as a vital and necessary component of our industrial life.

This attack upon organized labor is being conducted under an administration which has sought to implement and make inviolate Labor's basic right to collective action for mutual aid and protection. Yet Mr. Arnold and the Antitrust Division, the creatures of the same administration, have been authorized and equipped to make deadly war against those very rights. The weapon Mr. Arnold has taken up to cut his way to fame and glory is pointed at the very heart of the right of self-organization and collective action for mutual aid and protection.

This weapon is the Sherman Antitrust Law. In order to appraise the full significance of Mr. Arnold's campaign it is necessary to review briefly the law under which he is proceeding, in the light of the major judicial and legislative developments since the time of its enactment.

The Sherman Act.—The Sherman Antitrust Law was enacted in 1890. The Civil War had ended only a quarter century before. In the years of reconstruction, industrial America was growing at a feverish pace. Unchecked and untrammelled, the power of giant corporate capital over every phase of life was becoming more oppressive to free enterprise with every year. The malignant growth of monopolistic control of capital was eating into the healthy tissues of our body economic. To prevent a transition from human slavery to economic slavery, to limit corporate control and minimize its threat to political democracy, the Sherman Antitrust Law was enacted by Congress.

The passage of the Sherman Act was the result of a fierce legislative battle in which no parliamentary weapon was spared to obstruct its enactment. The familiar provisions of the Act as finally adopted were brief, broad and general. The Act declared to be *illegal, every contract, combination and conspiracy, in the form of a trust or otherwise, in restraint of trade or commerce among the several states.* The act made each violation of this provision a misdemeanor punishable by fine, imprisonment, or both, and provided that each person participating in the acts forbidden by the statute is equally guilty. In addition to criminal penalties, the government was given power to institute civil proceedings, without penalty. The Act also made it possible for any person damaged by a violation of its provisions to sue for restitution in a district court and receive three times the damage sustained, plus costs for attorney's fees.

The law, designed to curb monopolies, was certainly not intended to apply to labor organizations or to their activities. When the question of its applicability to Labor arose in the congressional debate, Senator Sherman, author of the Act, denied such intent and offered an amendment specifically excluding "any arrangements, agreements, or combinations between laborers, made with the view of lessening the number of hours of their labor or of increasing their wages," and also excluding farmers. An additional amendment offered by Senator Aldrich and, like the Sherman amendment, adopted without a roll call, specifically excluded "combinations or associations made with a view or which tend to increase the earnings of persons engaged in any useful employment."

These amendments having been approved by the Senate, the only device available to the opposition was that of adding what is known as "encumbering amendments." Amid laughter and joking the Senate also passed amendments to prevent gambling in stocks, cotton prints, steel rails, salt, boots and shoes, lead, woolen goods, and liquor. When all this was done it was admitted by Senator Gorman and others that the bill had been so amended as to make it inoperative—"worse than a sham and a delusion." Senator Sherman said that the clear purpose of these amendments was to bring the whole bill into contempt and to defeat it. All of the amendments, therefore, including the labor amendments, were subsequently stricken out and the Sherman Act was passed without them.

The Antitrust Law and the Courts.—Even in the midst of the tangled legislative history of the law one finds no specific evidence of congressional intent to apply it to unions. However, some of the earliest prosecutors under the Act were of labor organizations. The question of the application of the Act to organized labor came before the Supreme Court in *Loewe v. Lawlor*, the famous Danbury Hatters case. The United Hatters Union of the American Federation of Labor was engaged in a strike and a boycott against a factory in Danbury, Connecticut, which was one of the twelve not yet unionized. The employer brought action under the Sherman Act for an injunction and for triple damages. In its memorable decision, the Supreme Court held that although the Sherman Act "had its

origin in the violations of massed capital," since it covered any combination in restraint of interstate commerce, it applied to labor organizations as well. Triple damages were assessed against the union and the workers were threatened with dispossession and ruin. This decision galvanized the entire labor movement which, as one man, came to the support of the Hatters Union.

The fight was on in the courts and Labor's Bill of Grievances was taking shape. Application of the Sherman Act to the use of "unfair lists" in the *Buck Stove* cases made the need for legislative remedy all the more urgent. Under the leadership of President Gompers Labor demanded amendment of the Sherman Act.

In October 1914 the Clayton Act was passed. Section 6 of the Act stated in clear and definite language that *nothing* contained in the antitrust laws shall be construed to forbid the existence and operation of labor and agricultural organizations "instituted for the purposes of mutual help." Section 20 of the Act laid down the first statutory prohibition against the use of injunction in labor disputes, and asserted Labor's right to strike and to picket peacefully.

With the passage of the Clayton Act the intent of Congress to exclude unions from the application of antitrust laws was now clearly spelled out. But the new law was barely entered upon the statute books when prosecution of organized labor under the antitrust laws was resumed. The procedure was usually to sue a labor union for triple damages or to enjoin a labor organization from engaging in normal activities.

In the *Hitchman Coal* case, decided in 1917, the Supreme Court held the Sherman Act to be applicable to a union operating intrastate and the union to be an unlawful conspiracy. This case, in which Justices Brandeis, Holmes, and Clarke strongly dissented, would have dealt a death blow to unions were it not the Clayton Act. In 1921, in the case of *Duplex Printing Company v. Deering*, the Machinists struck at the Duplex plant and called upon other unions for support and for a boycott of Duplex presses. The unions engaged in a sympathetic strike were held by the Supreme Court to be strangers to the controversy and in refusing to handle "scab" material to be violating the Sherman Act.

The majority of the Supreme Court overruled the prohibition of Section 20 of the Clayton Act against issuance of an injunction in any case involving a labor dispute between an employer and employees by holding that workers involved in the boycott had no relation of employment to the firm. Justice Brandeis, dissenting with Justices Holmes and Clarke, supported the view that those engaged in the boycott had a common interest and therefore could rightfully refuse "to expend their labor upon articles whose very production constitutes an attack upon their standard of living and the institution they are convinced supports it." This decision, the most important since the *Danbury Hatters* case, made it clear that the legal status of the union activities under the Sherman Act as interpreted by the judiciary had not been changed by the Clayton Act amendments.

Next in importance were the *Coronado* cases which constituted the most extensive litigation in a labor case under the Sherman Act. In these cases the court, relying upon the terminology of the Sherman Act, reached the conclusion that a trade union, an unincorporated association, may be sued for damages and that interference with production within a state was a violation of the Sherman Act if the intent was to restrain commerce. This principle was far reaching significance to Labor, for any strike which prevented the competition of non-union goods with union products in the interstate market would, under this rule, be a violation of the Sherman Act.

As late as 1927 in the *Bedford Cut Stone* case the Supreme Court reiterated its stand taken in the *Duplex* case. In a powerful dissent by Justice Brandeis, again joined by Justices Holmes and Clarke, the minority of the Supreme Court proclaimed to the nation that to deny workers the right "to cooperate in simply refraining from work, when that course is the only means of self-protection against a combination of powerful employers," is to impose upon free labor "involuntary servitude."

These restrictive and reactionary decisions raised a tide of public protest which not only suspended the application of antitrust laws to Labor for a long time, but also gave support to further legislative remedies. The Norris-LaGuardia Act of 1932 was the first in a series of basic congressional enactments which flatly rejected the narrow and tenuous interpretations of a reactionary judiciary curtailing Labor's basic rights. The public policy of the Norris-LaGuardia Act stated it to be necessary that the worker have full freedom of association, self-organization, and choice of representatives and "that he shall be free from the interference, restraint or coercion of employers of labor * * * in self-organization or in other concerted activities for the purpose of collective bargaining

or other mutual aid or protection." The Act prohibited the use of the injunction against specific acts normally incidental to labor disputes, or against urging or inducing such acts, short of fraud or violence. The "yellow-dog" contract, enshrined and sanctified by the coal cases, was outlawed by the Act. In addition the Norris-LaGuardia Act declared that injunctions may not be based on any alleged conspiracy or unlawful agreement by reason of concerted action to gain the ends or to do the acts it specifically legalized. Thus the law laid down by the Supreme Court in the *Danbury Hatters* case and in the *Duplex* case was conclusively repudiated by Congress.

The full validity of this enactment was finally accepted by the Supreme Court in the case of *Senn v. Tile Layers Union*, a key case ably presented to the Court by the American Federation of Labor's General Counsel. In this case the court not only denied injunction against picketing to compel an employer to enter into a contract with a union, even though none of the employees was a member of such a union, but also stated that "There is nothing in the Federal Constitution which forbids unions from competing with non-union concerns for customers by means of picketing as freely as one merchant competes with another by means of advertisements in the press, by circulars, or by his window display. * * * One has no constitutional right to a 'remedy' against the lawful conduct of another."

In addition to the Norris-LaGuardia Act now tested in the courts, the National Labor Relations Act which reaffirmed the right "to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection" has established a final bulwark against the possibility of a resurrection of the provisions of the Sherman Act in application to Labor even by the Supreme Court. Numerous decisions of the Supreme Court fully sustaining its policy and provisions are simply not compatible with the letter and the spirit of the *Danbury Hatters*, the *Duplex*, or the *Bedford Cut Stone* cases, yet it is to these cases that Thurman Arnold still appeals in seeking justification for his program.

In the most recent and the most conclusive ruling of the Supreme Court, in the *Apex* case, the Supreme Court specifically addressed itself to the question of the application of the Sherman Antitrust Act to Labor. Briefly, the court held that only such union activities as come within the old common-law doctrine of restraint of trade are made illegal by the Sherman Act. Very few, if any, union activities come within this common law doctrine. To come within the scope of this doctrine of restraint of trade it is necessary that unions themselves engage in some form of competitive business enterprise, pursuant to which the union seeks to obtain market control of a commodity. Labor is not a commodity. It is clear, therefore, that under this restricted application of the Sherman Antitrust Act the ordinary and basic activities of labor unions cannot be held unlawful. In the *Apex* decision the Supreme Court established an obstacle which Thurman Arnold will find it difficult to overcome in his campaign against unions.

But the campaign still goes on with the full ammunition of the Antitrust Division of the Department of Justice still firing ceaselessly at Labor's basic right of self-organization for mutual aid and protection.

The Arnold Drive.—Thus far no irreparable harm has been done to unions as the result of the Arnold drive. In spite of vast arrays of legal talent, ingenious briefs and enormous sums of taxpayers' money all directed at effectively reducing the status and rights of union members, Mr. Arnold has achieved less success in his persecution of unions than he has in personal notoriety. A major portion of Mr. Arnold's time and effort, as well as of public funds at his disposal, has been devoted to a lavish publicity campaign designed to damage the prestige of organized labor and to bring odium upon labor unions. Speeches, releases, interviews, newspaper and magazine articles have been pouring in a steady stream from the desks of Mr. Arnold's Antitrust Division to bring the labor cause in disrepute if not by persuasion, at least by the sheer force of repetition.

By August 1, 1940, the Antitrust Division of the Department of Justice listed 116 actions it initiated under the antitrust laws between March 1938 and August 1940. These actions take the form of indictments, complaints, motions for injunctions, etc. Some have been settled by consent decrees; three have gone through trial; others are awaiting further disposition or further action. Of the 116 cases, 53 involve unions or union members or both. Twenty-one of these actions have been disposed of. In 13, consent decrees were entered. Three defendant parties pleaded *nolo contendere*. One pleaded guilty. In one case there was a verdict in favor of the Government; and in another a resounding victory for labor. In one case the Government withdrew the indictment, subsequently presenting a new one. One case is awaiting Supreme Court action.

The remaining 32 have not been disposed of: 8 are awaiting trial; pleadings are in process in the remaining 24, some for injunctions, some for various technical motions, and in a large number demurrers have been entered by the defendant parties.

Only three out of the 53 cases had reached the verdict stage by August 1. One of these, as has been noted, is before the Supreme Court. This is the case of *U. S. v. William L. Hutcheson et al.*, in which the defendant union moved for dismissal, the contention of the defendant union was upheld and the indictment was dismissed by the U. S. District Court. This case may turn out to be a test for Mr. Arnold in his willingness to fly in the face of protection granted Labor by the Norris-LaGuardia Act.

In one case a decision was entered against a local union. The third is the famous Washington, D. C., case in which Mr. Arnold attempted to eradicate a jurisdictional problem through the agency of the antitrust laws. On May 6, 1940, the court directed a verdict in favor of the Teamsters' Union.

In his drive Thurman Arnold has chosen to challenge the entire legislative and judicial development of recent years. To be sure he had indicated that he will not question Labor's right to collective bargaining as long as that right is strictly limited to the determination of wages and hours. But it is very evident indeed that he does not choose to accept broader and equally important aspects of mutual aid and protection for workers indispensable to effective collective bargaining.

The criterion relied upon for action by Mr. Arnold is that he will prosecute unions only when they are engaged in "unreasonable restraints." Not the Congress, not even the courts, but *Mr. Arnold himself is the sole judge* of what constitutes an unreasonable restraint. The judgment he has rendered to date is summed up in his letter of November 20, 1939, to the Central Labor Union of Indianapolis:

The types of unreasonable restraint against which we have recently proceeded or are now proceeding illustrate concretely the practices which in our opinion are unquestionable violations of the Sherman Act, supported by no responsible judicial authority whatever.

Briefly these are:

1. *Unreasonable restraints designed to prevent the use of cheaper material, improved equipment, or more efficient methods.*
2. *Unreasonable restraints designed to compel the hiring of useless and unnecessary labor.*
3. *Unreasonable restraints designed to enforce systems of graft and extortion.*
4. *Unreasonable restraints designed to enforce illegally fixed prices.*
5. *Unreasonable restraints resulting from jurisdictional strikes.*

These, then, are the actions for which unions are to be prosecuted by Mr. Arnold. What constitutes an "unreasonable restraint" in each case Mr. Arnold leaves it to Mr. Arnold to determine. In doing so he reserves to himself an enormous area of unrestricted power—sufficient to shape the future of the whole economic growth of our nation. Let us consider briefly what the wielding of this power by Mr. Arnold or his successor would mean to organized labor.

The first type of concerted effort subject to prosecution under the Sherman Act is that aimed "to prevent the use of cheaper materials, improved equipments, or more efficient methods." It is hardly necessary to state that organized labor stands for any improvement in equipment and methods when such improvement is safe and genuine and not mere fiction to disguise speedup and exploitation and when industry and the country can be protected against the sheer shock of mass technological unemployment.

These are the problems of industrial evaluation. "The are not," as Brandeis said in the *Duplex* dissent, "for judges to determine and certainly not for prosecutors to decide." They are properly the subject for negotiation and collective bargaining where both sides have the opportunity to present the facts and work out policies to mitigate whatever harm may exist in industrial change. But to Mr. Arnold it is clear that such negotiation, such concerted effort for mutual aid and protection, constitutes a conspiracy in restraint of trade and, the Congress and the courts to the contrary notwithstanding, a flagrant violation of the antitrust laws. Mr. Arnold's example of the use of cheaper material and improved equipment is "factory-glazed windows" or "factory-painted kitchen cabinets." We can ask with Henry Epstein, Solicitor General of New York: "Is it the purpose of the law or the courts to determine from what method best results will accrue to society? Is this not the very field of economic combat into which with the absence of violence, deceit or misrepresentation, the courts should not tread without

legislative or constitutional mandate?" And again: "Is this within the omniscience of an administrative official? Will prosecutor now supplant the courts and become a new legislative authority? Having had judicial legislation, are we now to have administrative legislation?"

In Mr. Arnold's second type of union action subject to prosecution, one which is "designed to compel the hiring of useless and unnecessary labor," Mr. Arnold is again fully prepared to determine what constitutes useless and unnecessary labor. This means that one of the most complex problems, and the most crucial to our economy, a problem which must be dealt with in a setting of vast unemployment afflicting a major portion of our entire population, is no longer a proper matter for negotiation between labor and management. This also means that when such bargaining occurs between labor and employers and even when it takes the form of written contracts, such bargaining is to be dealt with by the Government as a plain conspiracy in restraint of trade, subject to criminal prosecution under the Sherman Act. Labor's struggle to supply greater spread of employment, the struggle which, in the classic dictum of the New York Court of Appeals, barring "violence, deceit or misrepresentation," the courts must leave to the field of economic conflict, has now been outlawed.

The question Mr. Arnold attempts to deal with is not whether a conflict or agreement between groups should afford to the public protection against egregious injustice. Under the frame of our laws any damaged persons are entitled to and have full recourse to remedies. But Mr. Arnold is determined to remain blind to the fact that not only the Congress but also the Supreme Court (in the *Apex* case) pointed out what such remedies are and clearly showed that these remedies cannot properly be sought through the application of the antitrust statutes to collective bargaining for mutual protection.

Mr. Arnold's confusion is so vast that, while he sanctions collective bargaining for the limitation of hours and at the same time reserves to himself the right to determine the usefulness and the necessity of labor to be employed, he fails to perceive that such determination can properly be made only by the process of collective bargaining itself. Thus when Mr. Arnold assumes responsibility for determining usefulness of labor, he does so in contradiction of even his own restricted interpretation of what the collective bargaining process must embrace.

In his third category Mr. Arnold makes punishable under the Sherman Act the labor organizations which are parties to enforcing graft and extortion. As Solicitor General Epstein has pointed out: "It is a sad day when prosecution cannot stop this by means of criminal and penal statutes. Is the prosecution of *Capone* on income tax violation to excuse the failure of enforcement of criminal laws more directly applicable? Of *Fritz Kuhn* for petty larceny to cover the failure to prosecute a multitude of offenses against civil rights?"

We in the American Federation of Labor are over four million strong. In any such vast aggregation of individuals—and our organization will compare favorably with any organization of the same size—there will be a small percentage of lawbreakers and wrongdoers. Within or outside our ranks lawbreakers and wrongdoers should be strictly and relentlessly prosecuted without regard to class or economic group to which they may belong. This is the way Labor understands the equality of justice under the laws; this is the way the Constitution defines and determines justice; this is the way the American people understand justice, and the way in which they want it to be dealt.

The need for remedy is adequately met by the criminal statutes dealing with extortion and criminal conspiracy. Is the Assistant Attorney General of the Department of Justice making a public assertion that our criminal statutes are unenforceable? If he is not, then let him refrain from pleading that the Sherman Act is the sole means of dealing with these unlawful acts.

All this is also true of Mr. Arnold's fourth category, that of price-fixing agreements. The evil can be reached and full remedy found without applying the Sherman Act to Labor. Labor clearly recognizes that the antitrust laws are directly aimed at conspiracies to raise or fix prices, and that individuals found to be so conspiring are guilty of violating these laws. It is a wholly different matter, however, to charge that *labor unions acting as unions in the pursuit of their basic purpose of collective bargaining for mutual aid and protection* are engaged in such conspiracies. Labor stands just as firmly against violations within the true and established scope of the law as we stand against the misuse of these statutes to limit and curtail collective bargaining.

Arnold's final category concerning jurisdictional disputes is probably the most absurd of all. "The antitrust laws should not be used as an instrument to police strikes or adjudicate labor controversies," Mr. Edward H. Miller of Arnold's

staff wrote. Mr. Justice Brandeis had tenaciously held to this point of view over the years of the anti-Labor decisions. The Supreme Court now agrees with Mr. Miller and Mr. Justice Brandeis. A Federal judge who ordered a directed verdict in favor of the Teamsters' Union in the *Washington, D. C.*, case agreed with Mr. Justice Brandeis, the present Supreme Court and Mr. Miller. Mr. Arnold, however, does not seem to agree with this doctrine. Even after the District case, Mr. Arnold keeps on repeating that he will continue his efforts in this field. We must redouble our efforts to see that he shall not succeed in this perversion of the statutes with its enormous danger to Labor.

In Arnold's short span of months he has instituted more labor proceedings than had come before the Supreme Court in the fifty years of the life of the Sherman Act. We now have a Supreme Court that has seen more clearly than any of its predecessors the place of the laboring man and the labor movement and their just setting in the American scheme. We must bear in mind that the Norris-LaGuardia Act quite specifically undid much of the harm of prior decisions. This Act has now been firmly fortified by the Supreme Court. The present court has upheld, and undoubtedly will continue to uphold, reasonableness of collective bargaining over conditions of employment in spite of Mr. Arnold, and will continue to uphold reasonableness of Labor's means and acts of mutual aid and protection to the laboring man, his family and his unions.

Under the force of recent Supreme Court decisions and precedents such as that set by the outcome of the Teamsters' controversy in the District, Mr. Arnold's anti-union drive has bogged down considerably. But the pending cases must still be fought in the courts, and the work of clarification of the issues and protest must continue unremitted.

It is the firm purpose of the American Federation of Labor to meet the trend to government control of the collective bargaining process through the use of anti-trust litigation, and to build a strong and lasting foundation for a free and uninterrupted exercise of the rights gained by organized labor through generations of struggle, the rights without which economic democracy in America cannot survive.

REPORT OF THE COMMITTEE ON RESOLUTIONS, AND ACTION OF THE CONVENTION

LABOR AND THE ANTI-TRUST DRIVE

(Executive Council's Report, Page 143)

Your committee jointly considered that portion of the Executive Council's report under the above caption and Resolution No. 129, which is as follows:

Demanding Legislation to Protect Labor Organizations From Application of Anti-Trust Laws

Resolution No. 129—By Delegate Louis P. Marciante, New Jersey State Federation of Labor

WHEREAS, During the past year, the U. S. Department of Justice, through Assistant Attorney General Thurman Arnold, has taken upon itself the criminal prosecution of many labor unions and their officers under the Sherman and Clayton Anti-Trust Laws, from the provisions of which, for many years, organized labor has deemed itself exempt; and

WHEREAS, The Department of Justice has taken unto itself the power of declaring what activities of labor are "reasonable" and which are "unreasonable restraints of trade", and thus has arrogated unto itself the powers of legislation, and has caused great confusion, dissatisfaction and misunderstanding among the ranks of labor; now Therefore be it

RESOLVED, That the Federation goes on record as demanding the immediate passage of Congressional legislation designed to clarify the meaning of the Sherman and Clayton Acts, and to prevent their application to legitimate, time-honored and proper labor union activities; and be it further

RESOLVED, That the Secretary is directed to forward a copy of this resolution to President Roosevelt, to Attorney General Jackson and his assistant, Thurman Arnold, and to each member of Congress.

A little over a year ago, organized labor was startled by a criminal prosecution instituted by the Anti-Trust Division of the Department of Justice against an American Federation of Labor affiliate for having engaged in usual and ordinary union activities in furtherance of labor's interests. Before labor had an oppor-

tunity to appraise fully its significance, a number of prosecutions were instituted by the same Division of the Department of Justice against labor unions and their officials. In the past two years more prosecutions have been brought against organized labor for alleged violations of the anti-trust laws than had been brought in the preceding fifty years.

Thus, after years of effort and at a time when labor has succeeded in protecting its basic rights by legislation such as the Norris-LaGuardia Act, the Social Security Act, the National Labor Relations Act, the Walsh-Healy Act, and similar labor enactments, it is now confronted with the most vicious attack ever made upon it. No power or force, intent upon destroying labor's rights, could have devised a more destructive weapon with which to accomplish its end than the revival of anti-trust law prosecutions against labor unions.

These are not isolated prosecutions of alleged isolated violations of the law. The prosecutions are a course of action planned to fit in with the personal views of the head of the Anti-Trust Division of the Department of Justice as to what constitutes proper labor union activities in relation to inter-state commerce.

With dramatics that approximate the art of showmanship, a number of prosecutions were launched at one and the same time on fantastic economic theories never heard of before. We use the word "dramatics" advisedly, because these prosecutions are based on new concepts of what constitutes a violation of the anti-trust laws, and good legal strategy would have dictated the bringing of one test case instead of launching upon an expensive and untried series of cases at one time. Likewise, we use the word "fantastic" advisedly, for what could be more fantastic than the interpretation placed on the anti-trust laws as to what constitutes illegal restraints of interstate commerce by the head of the Anti-Trust Division of the Department of Justice. In a letter dated November 20, 1939, to the Central Labor Union of Indianapolis, he holds among other things the following union activities to constitute criminal violations of the anti-trust laws if they result in restraints upon interstate commerce:

- (1) Union activities designed to prevent the use of cheaper material, improved equipment, or more efficient methods.
- (2) Union activities designed to compel the hiring of useless and unnecessary labor.
- (3) Union activities designed to bring about a change in an established bargaining agency.
- (4) Union activities in furtherance of jurisdictional disputes.

This concept discloses a woeful ignorance or deliberate attempt to destroy the fundamentals on which the organized labor movement was founded.

Regardless of the interpretation the Anti-Trust Division places upon union activities designed to prevent the use of cheaper materials, etc., every unbiased and informed person knows that these activities are engaged in, to prevent sweat shop labor and the distribution of sweat shop products. Regardless of the construction the Anti-Trust Division places upon union activities designed to compel the hiring of useless and unnecessary labor, these activities are engaged in, among other things, for the purpose of shortening the work day and the work week, thus reducing unemployment by bringing about the hiring of additional labor. Regardless of the holding of the Anti-Trust Division, union activities designed to bring about a change in established collective bargaining agencies, are engaged in for the purpose of eliminating company unions and supplanting them with bargaining agencies affiliated with the American Federation of Labor. Regardless of the views of the Anti-Trust Division in relation to jurisdictional disputes, such disputes generally result from differences between labor organizations, arising out of the asserted right of workers to engage in particular classes of work for the protection of their livelihood. Often the jurisdictional dispute results from technological changes over which unions and their members have no control. Regrettable as jurisdictional disputes are, and desirable as it is to eliminate them, by amicable adjustments, the processes for adjustment are within the jurisdiction of labor and not within the civil or criminal courts.

However, this insidious attack by the Anti-Trust Division of the Department of Justice upon organized labor has, to quite a degree, been halted by decisions of the Federal courts.

We question the motives of the Anti-Trust Division in instituting criminal prosecutions and we can see no other reason for the prosecutions than that of malice towards our American Federation of Labor affiliates. This is further emphasized by the fact that only unions affiliated with the American Federation of Labor have been prosecuted by this Department. Interference with interstate

commerce in restraint of trade by sit-down strikes and other activities, staged by dual and rival unions, brought no prosecutions against these dual and rival organizations, whereas American Federation of Labor unions having engaged in peaceful activities have been prosecuted by the score.

It remains for the American Federation of Labor to caution its affiliates against subtle attempts on the part of the Anti-Trust Division of the Department of Justice to procure conformance to its views of what constitute violations of the Anti-Trust laws by obtaining consent decrees from labor unions. A consent decree is, in effect, an injunction, rendered by the court through agreement of the parties by which the union is thereafter prohibited from doing certain things. In other words, it is nothing more nor less than old-style labor injunction, for the violation of which, unions, officials, and their members may be punished for contempt of court. This form of injunction is as abhorrent to organized labor as those injunctions against which labor fought for almost half a century, and which resulted in the passage of the Norris-LaGuardia Act. We must beware lest the consent decree becomes as serious a menace to organized labor as was the old type injunction prior to the passage of the Norris-LaGuardia Act. We therefore, admonish our affiliates to weigh carefully first, whether it is advisable to enter into a consent decree at all, and second, to have the provisions of the consent decree analyzed most carefully so that labor's fundamental and constitutional rights are not surrendered or destroyed.

In connection with the subject under consideration, attention is called to the fact that so far the Anti-Trust Division has prosecuted businessmen on a civil basis and under the operation of civil law, while labor officials and trade unions have been prosecuted under the criminal law and procedure. This is another evidence of the unfortunate bias and misconception of his responsibilities which has been shown by the head of the Anti-Trust Division.

We re-emphasize what was definitely expressed by conventions of the American Federation of Labor when the anti-trust laws were being considered by Congress, that is, that we were assured that these laws were not intended to embrace within their provisions labor unions and their activities. We re-emphasize that classic pronouncement which is the first sentence of Section 6 of the Clayton Act,—“That the labor of a human being is not a commodity or article of commerce,” and not being a commodity or article of commerce, it is not within the purview of the anti-trust laws, for such laws apply only to, and deal solely with, commodities and articles of commerce. There is a vast distinction between “labor” and the “thing produced” by labor. While “things produced” are subject to the anti-trust laws “labor” is not.

Therefore, we condemn most vigorously the unwarranted course pursued by the present Anti-Trust Division of the Department of Justice towards organized labor and the fundamentals upon which it is founded. We must demand from those occupying higher positions than the person in charge of the Anti-Trust Division that they curb these unwarranted and destructive activities against organized labor.

In connection with this portion of the Executive Council's report, your committee also considered Resolution No. 129. This report is designed to cover both subjects.

The report of the Committee was unanimously adopted.

REJOINDER BY CORWIN D. EDWARDS, ECONOMIC CONSULTANT, DEPARTMENT OF JUSTICE, TO LETTER FROM THE AMERICAN FEDERATION OF LABOR

DEPARTMENT OF JUSTICE,
Washington, D. C., March 24, 1941.

Honorable JOSEPH C. O'MAHONEY,
Chairman, Temporary National Economic Committee
Washington, D. C.

MY DEAR MR. CHAIRMAN: In a memorandum submitted for publication by the Temporary National Economic Committee, Mr. Padway, the General Counsel of the American Federation of Labor, asserts that there is danger to labor unions in use of the antitrust laws to prevent the following restraints of trade:

1. The strike of one union against another union which is certified by the National Labor Relations Board to be the only legitimate collective bargaining agency with whom the employer can deal.
2. A strike to erect a tariff wall around a locality.
3. The exclusion of efficient methods or prefabricated materials from building construction.

4. The refusal of unions to allow small independent firms to remain in business.
5. The activities of unions in imposing and maintaining artificial fixed prices to consumers
6. The make-work system.

I have been asked to answer this statement. In doing so I shall not discuss whether the practices in question are unlawful, for the determination of disputed points of law is not my business. I shall deal with certain issues of public policy involved in the activities defended by Mr. Padway—issues relevant not to what is the policy of the law but to what it should be.

The question at issue is not the right of collective bargaining nor the activities of unions which are designed to raise wages, reduce hours, and improve conditions of employment. In such matters unions have established their place, not only in law but in public policy, as necessary instruments to protect health, safety, and human dignity, and to spread the benefits of industrial progress. The sole issue is whether the practices described constitute abuses of unionism against which the public should be safeguarded. A year ago, when there was little appreciation of the need for such safeguards, the Antitrust Division was attempting to provide them. Today, when many groups are urging that legitimate union activities be prohibited or closely regulated, we have not changed our view that public control of unions should be limited to the prevention of such abuses.

Within the last generation unions have acquired legal and economic strength sufficient to enable them to organize even the most powerful industries. Their struggle for recognition is nearly over. The power which has brought them recognition has often enabled them to impose their will both upon business enterprises and upon working men. Indeed, without such a degree of power they have only a limited effectiveness in promoting labor's well-being.

The public question involved in antitrust proceedings against unions is whether anything needs to be done about abuses of labor's new power. The legal exemptions granted to labor have been interpreted by some as a complete immunity to use such distinctive weapons of unionism as the strike and the boycott for any purpose whatsoever. If labor's legal privileges are thus interpreted, they go far beyond anything that is necessary to make unions effective in serving their members. The strike and the boycott are means of coercion. The privilege to use a coercive device freely, with no limit upon when and why one uses it, is a grant of power whose only limit is set by the damage which can be done. If substantial power can be achieved and if it is likely to be used objectionably, such a privilege is highly dangerous. The actual dangers in the labor field are described below.

The need to curb certain abuses of unionism is already apparent in cases in which unions have achieved substantial control over opportunities for employment and over the survival of business enterprises. When a union controls the labor market, its power over small business enterprises is even greater than the power of a single large company over the unorganized individual working man, because the individual worker can seek other employers but the small business has no alternative uncontrolled source of labor supply. Such a union likewise has more control over its own individual members than a large company can exercise over a non-union worker; for the blacklisting of a member deprives him of employment opportunities throughout the entire controlled area and prevents him from getting employment in union shops in other areas. His opportunities for employment are thereby seriously reduced and may even be entirely destroyed.

During the last three years the Department of Justice has been receiving complaints from subordinate officials and members of certain unions, non-union workers, business men, and consumers which indicate that in some unions the abuse of power constitutes a serious problem. These complaints have centered in relatively few unions—chiefly those in the building trades and in truck transportation. They appear to involve the need for specific corrective protection by a public agency under the antitrust laws or otherwise; but their scope is not such as to justify a general reversal of public policy toward labor organization.

The rest of this memorandum will attempt to clarify the types of abuses which have aroused complaint and to furnish illustrations of each type.¹

¹ Where illustrations are drawn from the proceedings of the Antitrust Division, the situation described is that set forth in a charge by a Federal grand jury based upon evidence presented by the Department of Justice; but since most of these cases have not been tried the final determination of the truth or falsity of the charges is yet to be made. Other illustrations are based upon complaints which appear to be substantial but which have not been fully investigated. In these cases we cannot vouch for the accuracy of the statement of facts. However, the illustrations are typical of a body of complaints so large that the substantial accuracy of the pattern may be guaranteed.

UNION RESTRAINTS UPON BUSINESS COMPETITION

In a considerable number of cases unions have supported and participated in restraints of trade which are designed to control the sale of commodities by business enterprises. Indictments now pending involve charges that various construction unions have forced employers to join contractors' associations by refusing to supply labor to non-members of such associations.² In some instances, although the independent concern may obtain union labor, the terms of employment exacted by the union are discriminatory in that a higher wage scale is imposed or the association is given preference in labor supply or slow-down policies are adopted on work for the independent.³ In some unions there is a similar discrimination against general contractors or building owners, designed to force them to employ subcontractors. In Philadelphia, for example, a provision of the labor agreement stipulates that requests for painters by an owner, builder, or general contractor shall at first be refused in an effort to have the work contracted by a member of Associated Master Painters and Decorators. A pending indictment charges that the plumbers' union has refused to install plumbing equipment not sold through orthodox channels of distribution.

In many cases the union participates as an enforcing agent in efforts by business groups to fix prices. Several indictments now pending allege that various construction unions agreed to withdraw labor from contractors who did not participate in schemes to fix prices by use of bid depositories.⁴ In Salt Lake City the union agreement between bakers and bakery drivers provides that prevailing market prices will be maintained. Similar union participation in fixing the prices of bakery products appears to exist in Peoria, Illinois. In Dubuque, Iowa, the milk wagon drivers' union is under indictment for participating in a conspiracy to prevent a distributor from reducing milk prices. In Toledo, Ohio, it is alleged that this union is likewise involved in a scheme to fix retail milk prices. The labor agreement between painters and painting contractors in Peoria, Ill., provides that all contractors must adhere to minimum prices approved by a local board and grants the board the right to prevent the execution of any work obtained at prices below this minimum.

Union participation in such restraints appears to have arisen in several different ways. In some cases a strong employers' organization has insisted upon obtaining help from the union in price fixing or driving out independent business men as a condition for acceptance of a union contract, and the union has acceded rather than fight for recognition. In other cases the union has offered to sell its services as strongarm agent to a business group in the belief that better wages will be granted in return. Sometimes it appears that graft was paid to the business agent by the employers and that he earned his money by enlisting his union in a program of business restraint. In some instances the union itself apparently believed that wages and working conditions were likely to be jeopardized unless the intensity of competition among employing concerns was reduced, and for that reason took the initiative in developing a price-fixing program.

Provisions for price fixing and for driving out independents are often included in labor agreements alongside the standard provisions concerning wages, hours, and conditions of employment. There is no distinction in form between these provisions. Employers and employees have agreed to them all. Less frequently, the union's part in a program to restrain business activity is set forth in union by-laws or is developed without any formal document. There appear to be adequate remedies in existing law to deal with conspiracies to fix prices or drive out independent business men when unions and business men participate together in such conspiracies. According to Mr. Padway, however, the *Hutcheson* decision gives labor, acting alone, the right to destroy independent business men and to fix commodity prices whenever it so chooses. If this interpretation of the law should

² See, for example, *U. S. v. Santa Barbara County Chapter, National Electrical Contractors Association, et al*, Indictment, February 28, 1940; *U. S. v. San Francisco Electrical Contractors Association, Inc., et al*, Indictment, March 2, 1940; *U. S. v. Heating, Piping and Air Conditioning Contractors Association of Southern California, et al*, Indictment, January 26, 1940; *U. S. v. Contracting Plasterers' Association of Long Beach, Inc., et al*, Indictment, February 2, 1940; *U. S. v. San Francisco Hardwood Floor Contractors' Association, et al*, Indictment, December 20, 1939; *U. S. v. Harbor District Chapter, National Electrical Contractors' Association, et al*, Indictment, February 16, 1940; and *U. S. v. Master Plasterers' Association of San Francisco, et al*, Indictment, December 22, 1939.

³ See, for example, *U. S. v. Glaze-Rile, et al*, Indictment, November 10, 1939; *U. S. v. St. Louis Tile Contractors' Association, et al*, Indictment, May 17, 1940, pleas of nolo contendere and fines aggregating \$20,011 assessed (suspended for 3 years) and Consent Decree entered July 1, 1940; and *U. S. v. Brooker Engineering Company, et al*, Indictment, March 21, 1940.

⁴ See, for example, *U. S. v. San Francisco Electrical Contractors' Association, Inc., et al*, Indictment, March 2, 1940; *U. S. v. Master Plasterers' Association of San Francisco, et al*, Indictment, December 22, 1939; and *U. S. v. Associated Plumbing and Heating Merchants, et al*, Indictment, April 27, 1940.

prove correct, unions will need to take the precaution of placing in by-laws rather than labor agreements their rules which are designed to destroy independent business or to fix prices. The public will have no safeguard against private price fixing wherever a labor group has reason to believe that its price-fixing program will make employers more generous in dealing with it. Those unions which think that the well-being of a labor organization is closely related to what goes on in the market for the industry's goods will be free to make rules about any aspect of business activity without being limited by the antitrust laws; and of course their employers will gladly acquiesce in the enforcement of any such rules which embody restraints of trade congenial to the employing group. Unions which see no direct advantage in making their products scarce and high priced by restraints upon the commodity markets will be licensed to sell to their employers price-fixing services which no one else has a legal right to perform, provided only that the increase of wages which employers grant in payment for these services is not so conditioned upon performance as to make the employers parties to the price-fixing scheme. In economic effect and in burden upon the consuming public, a commodity price fixed by labor is indistinguishable from one fixed by other groups.

So broad an exemption for unions must necessarily turn the ingenuity of business groups toward the development of incentives to induce unions to restrain trade without formal agreement with employers. Its practical effect would be to make the antitrust laws largely inoperative, not only for labor groups in the sale of their services in the labor market, but for commodity markets in industries in which organized labor is powerful.

MAKE-WORK POLICIES

A variety of union practices involve restrictions upon trade designed to make work for the members of the particular labor group which imposes them, either by transferring that work from some other labor group or by requiring the performance of more work than is reasonably necessary in doing the job. In the first class of cases the restriction obviously brings no benefit to labor as a whole, though it may benefit a particular group at the expense of other organized labor. In the second class of cases, there is an immediate increase in the total number of jobs, which often evokes an offsetting decrease in demand for labor by employers who use labor-saving processes to escape the increased expense. In both cases, however, the injury to the general public is similar to that which is created by any non-labor group when it attempts to protect a local market or to impose unnecessary charges upon business activity.

A frequent restriction designed to benefit one labor group at another's expense is refusal to handle materials which are not locally made. Several pending antitrust cases involve this practice. In Chicago, stone cutting establishments and the Building Trades Council are charged with a conspiracy to require that stone used in Chicago construction be finished in Cook County rather than elsewhere. Since rough stone may weigh as much as 20% more than the finished product, this regulation entailed an unnecessary freight expense. Since Indiana producers are better equipped than Chicago producers, it entailed an unnecessary manufacturing expense. Since unionized stone cutters in Indiana get higher wages than their union brethren in Chicago, it entailed an actual decrease in the wages paid for a given amount of work. The Chicago local obtained work at the expense of the Indiana local and of the Chicago builder. In other cases involving the same principle, the local branch of the electrical union in New York City is charged with refusal to install electrical equipment made outside New York State except on condition that the equipment be disassembled and reassembled at the job site. In Pittsburgh and San Francisco the carpenters union is charged with participating in conspiracies to prevent the use of millwork not locally manufactured. In some instances this effort to Balkanize the American market has been a joint activity of employers and workers, both interested in transferring business to themselves from out of town competitors. In other instances labor alone has made the effort. The economic effects upon the market have been identical, whoever imposed the restraint.

In a second type of case, unions have sought to require that work be done on the job site rather than in the factory. In antitrust proceedings against metal lathers in New York City, it is charged that they refused to install metal lath and metal rods which were not fabricated or bent on the job or in union shops within the city. Carpenters and building laborers in Belleville, Illinois, are involved in an indictment which charges that they conspired with contractors and building material dealers to prevent the erection of a house built from prefabricated

structural parts. In Houston, Texas, master plumbers and the plumbing union agreed that piping prefabricated for installation in a particular place in a specific job would be installed by the union only if the thread was cut off one end of the pipe and new thread was cut at the job site. They also agreed that brass pipe was to be delivered without a thread on either end. Plumbers in Minneapolis agreed with their employers that all pipe up to and including 6 inches must be cut by licensed plumbers either on the job or in a local shop. Electricians in Peoria, Illinois, agreed with electrical contractors there that all pipe, wire and other materials necessary for installation should be cut, bent, and assembled on the job. A similar agreement in Racine, Wisconsin, provided that all conduit be cut and prepared on the job and that all fixtures be wired and assembled either on the job or by the journeymen during working hours. Electricians in Washington, D. C. made a similar agreement providing that all hangers and supports constructed of channel or angle iron or an equivalent, up to and including 3 inches, should be fabricated on the job and that all bus ties between transformers, switch boards and service entrances, with one exception, should be so fabricated. Painters in Chicago agreed that sash, frames, and screens must be primed, painted and glazed on the job. In Danville, Illinois, they reluctantly agreed to the priming of trim brought from out of town when the architect specified priming at the mill, but insisted that local trim be primed on the job.

Efforts to prevent the use of improved processes, more productive machines or tools, and better materials are very similar in their motive and effect to efforts to prevent factory work. In a pending Chicago case the building laborers' union is charged with participating in a conspiracy to prevent the use of ready-mixed concrete in Chicago building. Mixer trucks are in general use in the construction industry in other cities and have proved their economy. They not only reduce the number of man-hours necessary to mix concrete, but also increase the speed of construction by mixing the materials while they are in transit rather than after they have reached the job site. In Quincy, Mass., a local of the granite cutters union has agreed with the employers that brooms instead of compressed air are to be used to remove dust. In Washington, D. C., the electrical union's agreement with the contractors prohibits the use of power in pulling small wires and in cutting and threading pipe of a size between $\frac{1}{2}$ inch and an inch. Various locals of the painters union impose restrictions upon the use of spray guns which are designed merely to make work by requiring the slower process of applying paint with a brush.

Efforts to prevent the increase of efficiency attainable by transferring work from the job site to factory or by using improved processes usually spring from a desire to avoid any reduction in the number of hours of labor required to produce a particular result. The excuse for such policies which was formerly provided by the workers' lack of security from unemployment has been greatly diminished by public programs of unemployment insurance and work relief. It is obvious that such restrictions keep costs high and demand correspondingly limited. Factory production and improved machines have been the cornerstones of high standards of living in the Western World. Labor has a legitimate interest in organizing factory workers and in seeing to it that pay, hours, and conditions of employment express not only the past gains of labor, but the increased productivity of new processes. It has a legitimate interest in surrounding the new methods with safeguards for health and comfort. But a veto upon improved technology involves such a severe burden upon the public that the narrow interest of a particular labor group should give way.

The rules of various locals of the painters union concerning the use of spray guns illustrate the difference between reasonable safeguards for labor and mere make-work policies. The hazards to health involved in the use of oil paint are increased by spray painting unless proper respirators are used; and in practice men are careless in using respirators unless they work in gangs under direct supervision. Certain local unions have recognized this fact by prohibiting the use of the spray gun with oil paint in construction work, while placing no obstacle in the way of spray painting with water paint. Although there might be other ways of dealing with the problem which would protect the worker's health and still permit a fuller use of spray guns, such regulations are so obviously reasonable that under present conditions unions should be free to adopt them without check. In other cases which have been brought to our attention, however, local unions make no distinction between oil and water paint in their rules, but provide that spray guns shall be prohibited in painting any wall surface where brush work may be used effectively, whereas spray painting may be used on all radiators, grills, and other surfaces where it is impractical to use brushes. It is clear that such a rule fails to

protect the worker's health against oil paint sprays but is intended to make work by requiring the most time-consuming process wherever practicable.

Union rules which seek to make work by directly requiring that unnecessary labor be hired involve a similar problem. In one antitrust case won by the Government, a local of the teamsters' union required that every truck entering the metropolitan area have a local driver in addition to the driver already employed. Such charges on trucks entering cities are appearing in various parts of the country with increasing frequency. In various cities the electrical union requires that if any temporary light or power is to be used on a construction job there shall be a full time maintenance electrician who shall not be permitted to do any electrical construction work. This rule often involves the hiring of a man who spends his day reading or playing solitaire and does nothing except throw a switch at the beginning and end of the day. In several cities the operating engineers' union stipulates that no man may be hired for a period of less than three days and that if his employment exceeds three days he must be paid for a full week.

Union rules concerning the amount of labor which must be employed shade off from such obviously unreasonable requirements to provisions which do no more than safeguard the worker against excessive burdens and excessive speed. Rules by bricklayers limiting the load which may be carried up a ladder, rules by electricians requiring the use of additional men in certain work upon high voltage wires, and rules by various unions of factory workers limiting the number of machines which may be tended by a single worker all illustrate the legitimate function of many regulations which limit performance or increase the number of employees. In view of the importance of the labor interests involved and the many industrial situations to which various rules must be adapted, the public interest probably requires that in doubtful cases the reasonableness of the union regulation be presumed. Nevertheless, there is no need to support union rules which clearly have no purpose except to compel the hiring of unnecessary labor. Many of these rules can be easily identified because the men hired make no effort to perform the work and sometimes do not even show up on the job. Their function is merely to receive wages. When a make-work system goes so far, it is no more than a program of work relief which, instead of being publicly financed and supervised, is privately administered by discriminatory assessments against particular employers and consumers.

EXPLOITATION OF THE RANK AND FILE

The perversion of a powerful union creates tragic problems for workingmen. Members of unions may be deprived of an effective voice in choosing their leaders and determining their policies. The hod carriers' union, for example, has held no convention since 1911. Under the union constitution the national officers have full authority between conventions to interpret the constitution, to depose the officers of locals, to appoint officers, to investigate the activities of locals, to review the rules of locals, to make agreements with employers and enforce these agreements, and to settle disputes between parts of the union. During the 30 years since the last convention the office of president and other national offices have been filled as vacancies arose by vote of the remaining national officers. Thus a small self-perpetuating group has exercised full control over the union for a generation. Unless revolt within the union should reach such proportions that two-thirds of the members, undismayed by the wrath of the national officers, demand a convention, there is no requirement that any further convention ever be held; and even the opportunity for such a two-thirds vote need be extended to the membership only at five year intervals. For practical purposes control by a junta is established in perpetuity.

Dictators are no more certain to be public spirited in unions than in political governments. This memorandum need not deal with the repeated cases of graft collected from members or from businessmen, since the laws against fraud and racketeering are adequate, if vigorously enforced, to deal with such problems. In some cases, however, the dictatorial power of union officials is used to coerce the members into restraints of trade against which there is no legal remedy except in the antitrust laws. In the Cleveland glass case the grand jury charged that certain officials of a glazing union held substantial interests in local glazing companies and prevented the installation of glass from other sources, and that members of the union who opposed such policies were intimidated and beaten up by the order of these officials. In the St. Louis trucking case the grand jury charged that an official of the trucking union who owned certain filling stations required that truck owners obtain their gasoline at these stations. The defendants pleaded

nolo contendere in this case. In a Middle Western city it is alleged that the sheet metal workers' union excludes non-local products in order to give a monopoly to the only producing enterprise in the city, of which the union's business agent is a partner. In such cases the rank and file of the union is used as the collection agent for its officer's private business, is thrown into strikes and boycotts which help the official to dispose of a competitor, and is given substantially no protection in meeting its own working problems. To be unable to get work without belonging to a union which is administered as a mere adjunct to a private business is in effect to be placed in peonage.

EXPLOITATION OF NON-UNION WORKERS

Perversion of union power may likewise injure non-union workers. Membership in a powerful union may be converted into a privileged status which becomes a valuable property right and is used to exclude less privileged workers from employment. Some unions categorically refuse to admit new members even though the applicants are willing to make the required payments and abide by all the union rules. Such refusals take place not only when work is scarce but even when there is a shortage of labor. Hence the practice will be illustrated by cases in which unions have remained closed in spite of the employment opportunities offered by the national defense program. Local 438 of the steamfitters' union in Baltimore admitted only six new members during the peak demanded for steamfitters which developed in the first world war, and now has a considerable number of applications for membership which its officers frankly admit will be rejected regardless of the ability or past employment record of the individual applicant. The heavy demand for steamfitters at Fort Meade, Maryland, and upon other projects in the Baltimore area is being partly met by issuance of working cards to members of locals from other jurisdictions; but because of the limited number of union men available, large amounts of overtime are being worked at double pay. Complaints have likewise indicated that branches of the carpenters' union at Pensacola, Florida, and Charlestown, West Virginia, have refused to admit new members and that there have been similar refusals by the painters' and bricklayers' unions in the latter place.

In some cases men are excluded from unions by high admission fees rather than by direct refusal to admit them. The admission fee of the glaziers' union in Chicago is \$1500, and at Camp Riley it is said to be the same amount; the admission fee of the motion picture operators' union in East Cleveland, Ohio is \$1,000; and the admission fee of truckers in Seattle, Washington is \$500. We have record of various other cases in which the fee is \$100 or over. In some instances the difficulty of paying the admission fee is enhanced by insistence that the entire sum be paid in cash in advance before the applicant obtains union employment.

When available work is too plentiful to be done by the available members of the union, some unions, instead of admitting new members, issue working permits to non-union men upon terms which exploit these men. We have been informed that at Camp Riley non-union glaziers are charged \$2.00 a day by the union for the privilege of working and that this sum is collected from more than 150 non-union men, whereas there are only about twenty union men on the job. At Fort Meade a similar system of working cards is being used by a Baltimore local of the electrical union to obtain a dollar a day from each non-union worker, plus an extra fee when he works overtime. This union, which had 412 members before defense construction began, has admitted 1,200 new members by transfer from other locals but has accepted to membership only about 100 men formerly non-union.

Under the pressure of the defense program, union control over employment opportunities is sometimes used to exploit non-union men by what amounts to a racket in membership fees. Complaints from defense projects throughout the East and at one or two points in the Middle West allege that various unions, particularly those representing carpenters and common building labor, are engaged in conspiracies to obtain admission fees from large numbers of non-union men and to procure the discharge of these men as soon as the fees have been paid. In one such case at Fort Meade, Maryland, we found that the union is using its requirement of a closed shop to obtain fees from all carpenters hired on the project, but that it makes no effort of any kind to determine whether the applicant is in fact a carpenter. Such large proportions of incompetent men are certified by the union as union carpenters that the discharge of many of them is inevitable. The union, however, gets part or all of the admission fee from each successive incompetent. Attached is a newspaper report which attempts to estimate the amount of money obtained by the union this way.

In presenting these illustrations of the exploitation of non-union men in connection with defense programs, there is no wish to minimize the peculiar difficulties which unions face because of the sudden expansion of the demand for defense labor in certain areas. Mass admissions to the union are necessarily difficult and the union's responsibility for the competence of its members is not easy to maintain. Nevertheless, a considerable number of union locals in defense areas are demonstrating that the difficulties can be met without piling up overtime by excluding non-union men, exploiting non-union men by excessive fees for working cards, or certifying as competent members of the union a mass of labor which has no other qualification for the job than ability to pay a fee.

JURISDICTIONAL DISPUTES

A powerful union may be used to impose an impossible burden upon employers, particularly small employers. There need be no concern about burdens which may be involved in the maintenance of union wages and working conditions; for it is a cardinal principal of public policy that business enterprises which cannot maintain high labor standards should be displaced, so far as possible, by those which can. However, an employer who is willing to provide wages, hours, and working conditions which meet the highest union standards may be exposed to strikes and boycotts which he did nothing to provoke and which he can do nothing to terminate. Such cases arise when a strong union is unwilling to use peaceful means of adjusting disputes between unions or is unwilling to abide by an adverse award.

Jurisdictional strikes typically involve such situations. Within the American Federation of Labor the various departments of the Federation have as one of their principal duties decision of disputed questions of union jurisdiction. Nevertheless, strong unions frequently refuse to accept adverse decisions of the departments of which they are members, in spite of the fact that the unions themselves created the machinery of decision. Probably no union has been thus recalcitrant more often than the carpenters' union. The *Hutchenson* case, in which a majority of the Supreme Court recently decided that the antitrust laws do not cover such controversies, arose out of a jurisdictional dispute between carpenters and machinists as to which union should install machinery in a brewery. In this instance the carpenters had repudiated a settlement which they had previously accepted and had sought to impose their own terms by strikes and by nationwide boycott of the brewer's beer.

Even more disastrous to the employer are cases in which jurisdictional awards of the National Labor Relations Board are attacked during warfare between unions attached respectively to the American Federation of Labor and Congress of Industrial Organizations. In the Chicago plywood case, both A. F. of L. and C. I. O. had requested the National Labor Relations Board to hold an election in a plywood manufacturing plant and had agreed to abide by the result. When the C. I. O. union was established as bargaining agent, the A. F. of L. carpenters' union boycotted the plant's products. In the New Orleans Building Trades Council case, the National Labor Relations Board had certified a C. I. O. teamsters' union as the bargaining agent for the trucking industry, but the A. F. of L. Building Trades Council refused to let any A. F. of L. construction union work upon materials delivered in trucks driven by C. I. O. labor.

In all such cases the employer, who is the unfortunate victim of the labor war, has no way of avoiding trouble, no matter how willing he may be to meet the terms of the unions. In the simpler case he may choose which of the unions he would prefer to see strike. Where one union has been certified as bargaining agent, he may take his choice between enduring the strikes and boycotts of the other union or finding himself subject to the penalties which the law provides for employers who engage in unfair labor practices. Moreover, when a dispute is between members of rival labor federations the sympathetic support given by other unions in the same federation may extend the area of conflict, as was done in New Orleans, until employers in other industries face strikes if they obtain their materials from concerns which obey the law.

During the present emergency the internecine war of labor unions is of great concern to the nation as well as to the employers immediately involved. At Dayton, Ohio, construction of a wind tunnel and laboratories vital to airplane production was suspended for 17 days because unions affiliated with the A. F. of L. struck against the employment of 5 workmen who are members of the C. I. O. In the St. Louis area work was suspended for more than a month upon an addition to a zinc plant which is to produce between 500 and 600 tons of zinc

per day, because the C. I. O. union which operates the present plant threatened to strike if A. F. of L. construction workers built the addition and A. F. of L. unions building another plant for the same company threatened to strike if the addition was built by C. I. O. Upon other defense projects in the St. Louis area, A. F. of L. unions have forced the importation of labor from other states in spite of the fact that C. I. O. labor was locally available and have required the importation of sand, gravel, and crushed stone from another state at a cost more than 50¢ a ton greater than that of similar products from nearby C. I. O. quarries. C. I. O. has been threatening to retaliate against these practices by refusing throughout Missouri to produce or deliver materials which are to be used upon any public construction job employing A. F. of L. labor.

THE NEED FOR SAFEGUARDS

The United States has decided that it wants high wages, short hours, and good working conditions, and that it can obtain these results by encouraging collective bargaining and arming those who represent labor in the bargain with the right to use strikes and boycotts. It has not decided that it wants price fixing, the driving out of independent enterprise, the stoppage of improvement in technology, the private imposition of work relief programs upon business enterprise, or the conversion of unions into dictator-ridden bodies closed to the great mass of workers who are not yet members. Self-restraint by labor groups is not enough to prevent such developments. The problem of public policy is to maintain the legal immunities of the collective bargaining process without granting organized labor the privilege of collective action for the undesired ends. Labor's freedom to use coercive devices, if unchecked, is a freedom to serve any purpose whatsoever. For the most part, the ends of monopoly and unreasonable restraint of trade to which these devices may be made to contribute are contrary to no laws but the anti-trust laws. The alternatives are to apply these laws to labor whenever labor acts outside its legitimate sphere or else to devise new legislation affording the public an equivalent safeguard.

Very truly yours

CORWIN D. EDWARDS,
Economic Consultant.

Enc. No. 229080.

A REVIEW BY THE HOME MARKET CLUB
ON MONOGRAPH NO. 10, "INDUSTRIAL CONCENTRATION
AND TARIFFS" BY CLIFFORD L. JAMES, ASSOCIATE
PROFESSOR OF ECONOMICS, OHIO STATE UNIVERSITY;
ALSO REJOINDER BY DR. JAMES AND EDWARD C.
WELSH, INSTRUCTOR IN ECONOMICS, OHIO STATE
UNIVERSITY, WHO ASSISTED DR. JAMES IN THE
PREPARATION OF THE MONOGRAPH

18195

A REVIEW OF MONOGRAPH NO. 10, INDUSTRIAL CONCENTRATION AND TARIFFS

(Issued, for use by the TEMPORARY NATIONAL ECONOMIC COMMITTEE, by William H. Cliff, Secretary, HOME MARKET CLUB, Boston, Mass.)

Monograph # 10, printed for the use of the Temporary National Economic Committee, is the result of great painstaking efforts of economists, whose sincerity is not questioned. This study covers an extremely wide range of commodities. As its conclusions are more or less questionable and because the many ramifications emanating therefrom are not taken into consideration, this review was written and is respectfully submitted to the Temporary National Economic Committee.

Due to the time element and to a desire not to impose unnecessarily upon its readers, this report does not delve into all findings enumerated in the said Monograph # 10. Its primary purpose is to test the accuracy of both statements and conclusions and their ensuing effects upon our national economy.

LETTER OF TRANSMITTAL BY ECONOMIC ADVISER TO T. N. E. C.

"As is well known, the tariff is a tax—a tax levied against all consumers." (Monograph, Page IX.)

Answer: A tariff would be "a tax against all consumers" if applied to imports of goods we do not produce or which are not native to this country. These non-competitive goods are put on the free list for the specific purpose of avoiding the imposition of a tax upon domestic consumers.

Tariffs on competitive goods are quite different. They are levied with the intent of equalizing lower foreign costs with higher domestic costs. If these tariffs are a tax, then American higher wage and living standards are a tax. Americans take pride in these higher standards and consider them as advantageous factors. Obviously they can't be a credit and debit at one and the same time.

Price and quality, in the long run, control all markets. If a producer can sell in the domestic market at a price that will render a profit, he can afford to sell abroad without profit in order to produce at a minimum of cost per unit. By running full time, he can give more work to his employees. Furthermore, by maintaining a minimum of cost, due to running full time, he can offer his product to the consumer at a price less than he otherwise would have to charge. Incidentally, selling abroad at cost is pretty close to the border line of dumping. On the other hand, inordinately high prices not only encourage domestic competition but stimulate importation of comparable foreign merchandise, irrespective of tariff.

Industry, whether in the field or factory, is generally divided into three classes: 1) those which supply the whole or almost the entire demand, for domestic use and consumption. 2) those which, with proper cultivation, are ultimately capable of supplying and do eventually supply such demand and 3) those which, due to natural conditions either regional or climatic, are not qualified to supply and thereby leave domestic demand dependent on foreign supply.

A prohibitive duty could be levied in class 1 with little or no effect on prices paid by the consumer. Legislative protection simply preserves the 2nd, and has a tendency to raise this class to a level with the 1st. Cost to the consumer would not necessarily be increased. If it were raised, the increase would be merely temporary as the legislative protection would stimulate production and thereby keep prices down to a reasonable margin of profit, which would result in a lowered cost to the consumer. If the increase became permanent, there are several government agencies watching for exorbitant price levels and are ready to proceed under existing law. Tariffs levied on the 3rd class are almost entirely for revenue purposes, which is the reason why this country has created such a long list of commodities free of duty.

"A tariff is a burden put upon foreign competitors so that the amount of competition at home may be less." (Monograph, Page IX.)

Answer: If the tariff is "a tax paid by all consumers", as previously claimed in the Monograph, how can it be "a burden put upon foreign competitors"? But why shouldn't foreigners pay for the privilege of competing in the domestic market with American producers? Either they should pay sufficient to cover the difference between foreign and domestic costs, due largely to low wage rates abroad, or American standards of life must be reduced to levels at which domestic producers can successfully encounter such competition.

"The extra price (due to tariff) stands for so much bonus to domestic producers to enable them to maintain themselves in a disadvantageous industry. And it represents so much national loss." (Monograph, Page IX.)

Answer: In the first instance, what is a disadvantageous industry? Industry should be efficient, but efficiency lags when industry is forced by ruinous foreign competition to lower its standards, which is the reason why tariffs should be sufficient to cover the difference between domestic and foreign production costs, thereby compelling imported merchandise to compete with domestic products on a quality rather than a cut-throat basis. Such tariffs permit the maintenance of and encourage an increase in efficiency.

In the second: What represents so much national loss? If the Administration's supposition that increased government expenses are harmless because they represent borrowing among ourselves is predicated on sound economics, it is most certainly logical to retain in this country both ends of a sale—the money paid and the product sold.

"But 'trusts' are also vigorous proponents of the tariff." (Monograph, Page IX.)

Answer: Some may be; it is quite evident that others are not. Domestic industries which require foreign outlets, due to their massive productive power, and are capable of developing such outlets, because of their tremendous financial power, have become so all-powerful that the public is apt to condemn them as "trusts". They most assuredly are not "vigorous proponents of the tariff". They should not be benefited by legislation to the detriment of less powerful American industries, which are largely dependent upon maintaining a fair share of the American market, which is logically theirs.

"They (American companies) are protected like infants, presumably on the ground that despite their control over the domestic market they are not vigorous enough to hold their own in competition with foreigners." (Monograph, Page IX.)

Answer: The authors of Monograph #10 fail to comprehend that all factors of production cost ultimately resolve into the one item of labor cost, because the material use of anything is the result of labor. Every time anything is handled, from the moment its raw material is severed from nature, through the longer or shorter processes of developing or adapting it to human usage and until it passes to the final point of consumption, it is labor that does it. It is not only labor that is on the payroll of field, mine, factory and mill, but it is the labor which matures, assembles and fabricates materials into the final product, for its machinery, for its supplies that are constantly renewed, for its expenses and services of management and investment, for the maintenance of local, state and Federal government and their public works. It is this factor of labor with which we cannot compete.

Foreign industries should pay for the franchise that permits them to compete in the American market with such domestic industries, which pay taxes to the federal, state and local government, and which extend employment opportunities to labor, and, likewise, to capital which is the fruit of labor. Capital is now idle because of artificially low interest rates paid in hiring money. It has not sufficient earning power to attract it to industry away from safer and less hazardous employment. Idle capital does not open opportunities for employment to the wage earner. Probably no sound economists will admit that both capital and labor, which are interdependent, are not worthy of their hire.

"That question (one mentioning extended treatment) is whether the trade-agreement program has medicinal uses: as a device for combating monopolistic or restrictive tendencies at home. The old method of tariff-making constituted a vehicle favorable to the creation and perpetuation of monopolistic tendencies." (Monograph, Page X.)

Answer: The trade-agreement program is probably a greater influence than the old method of tariff-making in labeling rather than combating monopolistic or restrictive tendencies at home, because it opens markets abroad, when the old method did not, for the surplus products of all-powerful domestic interests and thereby permits such interests to entail reduction in prices to the domestic consumer.

CHAPTER I. INTRODUCTION AND SUMMARY OF FINDINGS

"When tariffs exclude effectively foreign sellers of a given product from the domestic market, monopoly in some cases may be fostered, or at least facilitated." (Monograph, Page 2.)

Answer: Monopoly possibly may be fostered or facilitated in some instances, but monopoly in itself is not necessarily either good or bad. Its effects are according to its practices; if unethical they may be harmful and if ethical, they will be beneficial to the consumer. Protective tariffs in many instances have made possible the establishment of great domestic industries, which sell their products at lower prices than consumers would have to pay, if, through the elimination of domestic production, they were forced to rely upon imported merchandise offered by foreign producers.

"Because of fewness of production units, lack of efficiency, and a group interest stimulated by a tariff on a given product, combinations, consolidations and mergers are made easier than they otherwise would be. An additional incentive, moreover, is the possibility that in case of a prohibitive tariff increased monopolization among domestic producers will permit a more complete use to be made of the tariff with regard to domestic price policy." (Monograph, Page 2.)

Answer: 1) Combinations, consolidations and mergers are generally consummated in the interest of efficiency; 2) protective tariffs stimulate production, encourage domestic competition, and prices are regulated by the infallible law of supply and demand. High prices attract other American producers to those lines in which such prices exist. Furthermore, if prices artificially rise to excessive levels, tariffs become ineffective, thus permitting a flood of imports that will correct the situation. For example, when consumers were forced to pay an excessive price for sugar subsequent to the world war, imports of that commodity coming from almost everywhere in the world soon forced that price not only down to but beneath the average price level.

"In the event that the monopolistic industry engages in some exporting, the tariff assurance against imports disturbing the domestic market strengthens its bargaining position with foreign producers in agreements to allocate certain marketing areas." (Monograph, Page 2.)

Answer: It is quite evident that the reciprocal trade agreement program, in making foreign markets available to the products of monopolistic interests, encourages such practice.

"Cost of transportation enables production units in different areas of the same countries to exercise local monopolistic control." (Monograph, Page 3.)

Answer: Such may be possible in certain instances, but not generally so. Combination water and freight rates in normal times from abroad to inland domestic points, enjoyed by many foreign competitors, are often less than freight rates charged domestic producers from their domestic plants to the same inland domestic points of consumption. Likewise, water rates from abroad are less than freight rates from Ohio to points of import on the eastern seaboard, which are large centers of consumption.

"The same factor (transportation) with sanitary and other administrative restrictions eliminates foreign selling of many types of goods and services in the domestic market, or confines the selling primarily to coastal areas." (Monograph, Page 3.)

Answer: The outstanding case is the sanitary restriction which prohibits the importation of fresh, chilled or frozen beef from Argentina, but the tariff of 6c per lb. is not even a factor. In accordance with section 306 (Special Provisions) of existing tariff law (and this or similar restrictions have been enforced since the second Cleveland administration), the Secretary of Agriculture found that foot-and-mouth disease exists in Patagonia and so notified the Secretary of the Treasury, who had no other alternative but to enforce an embargo on Argentine beef. Department of Agriculture experts after careful study could find no evidence that such danger exists. However, no formal notice of such finding has been issued by the Secretary of Agriculture to the Secretary of the Treasury, who would be compelled under the provisions of the said section 306 to raise the embargo on beef from Argentina. Politics seem to be the determining factor in this particular instance.

"If the industry produces other products which are practically identical with imported goods, it may engage in full-line forcing and thereby exclude most of the imports from the domestic market." (Monograph, Page 3.)

Answer: This appears to be a case for the Federal Trade Commission to determine as to restraint of trade.

"Federal legislation (1933, 1935 and 1937) provides that within certain discretionary limits purchases for the Federal Government, or purchases under its contracts by others, are limited to domestic products." (Monograph, Page 3.)

Answer: This case is merely an instance wherein Congress, in a humanitarian effort to open opportunities for employment has granted priority to domestic producers, within discretionary limits as to price and quality.

"In 1890 Congress enacted the Sherman antitrust law in order to eliminate monopolistic developments in domestic industries and it also made a general upward revision of tariff rates which placed them above any previous level. No important downward revision was made in the tariff until 1913." (Monograph, Page 4.)

Answer: The Wilson-Gorman tariff law was enacted in 1894, during the second Cleveland Administration, for the specific purposes of "a general revision, reduction, and simplification of our system of import duties." Government statistics show an increase in rates on 53 articles and reductions as follows: transferred from dutiable to free list 92 articles, from 50% to 75% on 112 articles, from 25% to 50% on 368 articles and 25% or less on 250 articles. As that law reduced tariff rates on a total of 829 items, it can hardly be said with conviction that no important downward revision was made in the tariff until 1913.

"Dutiable imports from Germany, for example, have not been granted trade agreement rates since October 14, 1935, because of discriminatory treatment of American exports, and in addition to the duties of the act of 1930, dutiable imports from Germany since March 18, 1939, have been subject to countervailing duties equal to the amount of the export subsidy which they apparently received." (Monograph, Page 4.)

Answer: Great Britain, France and the United States entered a tripartite agreement and all three nations devalued their respective currencies. Germany, which previously had limitless inflation and had revalued its new mark at 24½ cents in comparison with a dollar worth 100 cents, found it impossible to compete in world trade against a 59c dollar, which raised her mark to a level above 40 cents. We did not grant to her benefits of the reciprocal trade program possibly because it would have been unpopular to have done so. On the other hand, we did not impose countervailing duties in accordance with provisions (section 303) of existing tariff law, although public announcement to this effect was never made. During 1935 and the first half of 1936, barter transactions facilitating German exports were permitted in the United States, even though it was plainly evident that Germany paid bounties to her exporters so that they might quote lower prices in the American market. The Federal Treasury did impose countervailing duties from June, 1936, to December of the same year. Why were such duties withdrawn in December, 1936, and not reimposed until March, 1939? Possibly because we desired to soften hardships inflicted upon Germany through the reduction in the gold content of the dollar, but more probably because barter transactions were the means by which we could dispose of huge quantities of surplus raw cotton, copper, oil and other war materials.

"In other cases reduction or removal of tariffs which permitted a substantial increase in imports would have only partial effect; that is, the increase in imports might be confined because of transport costs largely to coastal areas and would lower prices there without affecting them appreciably in inland areas;—without affecting appreciably the commodity class as a whole." (Monograph, Page 5.)

Answer: Coastal areas are largely great centers of consumption. As previously explained, water rates from abroad are cheaper than domestic freight rates to these areas. The removal of tariff would give these great consuming markets gratis to importers, who employ few American workers. Why not preserve them for domestic producers who employ many American wage earners?

"Without tariff aid and in the absence of other special favorable for more monopolistic practices, the only possible monopolistic device would be some form of international agreement among producers which under the circumstances indicated would be very difficult to maintain." (Monograph, Page 5.)

Answer: The negotiation of "international agreement among producers" has probably been encouraged by the so-called reciprocity program, because reciprocal trade treaties have opened foreign markets to those huge American productive interests, frequently looked upon as "trusts", which require and are capable of developing such outlets for their surplus products.

"Regardless of the method used, a coordinated policy in the use of tariffs and in the preservation of competition or regulation of monopoly is needed to promote efficient production and to assure that a liberal portion of the fruits of efficiency will reach the mass of consumers." (Monograph, Page 11.)

Answer: This statement resurrects the theory that tariffs protect inefficient domestic producers. It would be inconsistent to assume that one individual is

efficient merely because he is on a farm, and that a second is inefficient simply because he is in a mill or factory. The President, under the Agricultural Adjustment Act, may by proclamation limit imports of agricultural products, if such importations render or even tend to render ineffective or materially interfere with the Administration's agricultural program. The President, under the Reciprocal Trade Agreement Act, may by proclamation increase or decrease by not more than 50% any existing tariff rate on dutiable imports. He has decreased rates and has thus encouraged greater importations, in accordance with this Act, but has not increased rates and thereby limited imports. It is widely recognized and an official of the Tariff Commission, in testifying before a congressional appropriations committee, has admitted that, while the President may theoretically increase rates, there is no practical way for him to do so. The situation, predicated upon these two legislative acts, permits the inference that somewhere in authoritative government circles there is the assumption that farm workers in a certain branch of agriculture are more efficient than those who toil either in some other agricultural line, in mill or in factory.

Farm production costs do not include the high overhead imposed on industry by recent legislation, such as wages and hours, labor relations and social security. Certain American industries, due to world leadership in mass production, have been able to enter export trade. On the other hand, certain lines of agriculture, which are doubtlessly as efficient in mass production methods and which formerly enjoyed world leadership, now find their production costs so high, due largely to the agricultural program, that their products are priced out of world markets and the Government deems it necessary to grant subsidies in order to make possible exportations of certain farm products, notably cotton, wheat, tobacco, etc.

CHAPTER II.

"Two products, sugar and rayon yarn, were analyzed from the point of view of consumers' cost." (Monograph, Page 11, Chapter I.)

"Because of restrictions on imports, consumers each year pay a substantial additional amount on sugar." (Monograph, Page 14.) And similarly

"In 8 recent years the domestic consumers have paid on the average about \$273,633,000 more for sugar because of import restrictions." (Monograph, Page 11, Chapter I.)

Answer: Such statements are not substantiated by reports of the United States Tariff Commission. This country entered a reciprocal trade treaty with Hawaii in 1887. The consideration given for a naval base at Pearl Harbor was the admission into the United States, duty free, of specified products originating in the islands, while similar commodities, when coming from other sources, were subject to substantial rates of duty. The one commodity signally affected was sugar, beyond all expectation. According to the report: "The remission of duty on this sugar was not followed by a reduction in the price to the American consumer; the gain went to the sugar producers."

The following is taken from a Tariff Commission report captioned "Cost of Production in the Sugar Industry": "The foregoing compilations are based on the supposition that when the duty is removed the price will fall by the full amount of the tariff. Obviously the foreign purchaser could place his sugar on our markets at the lowered price and still be as well off as before. But because he could, it by no means follows that he would. . . . There would be the same buyers, the same sellers, the same quantity to be disposed of. Because the Cubans could afford to sell cheaper would in no wise move them to do so. They could get the best price attainable and the price would be precisely the price received before, plus the duty."

Furthermore, an official of the Tariff Commission testified before an appropriation committee of the Congress on the then pending Independent Offices Appropriation Bill. What he said, which is quoted here in part, is interesting in view of the finding that the duty on sugar costs the consumer \$273,000,000 annually: "The lowering of the rate of duty on Cuban sugar under the trade agreement probably has had little effect on the wholesale price of sugar or on the price to the consumer in the United States".

As the price in many cases is not based on the cost and bears little if any relation to the cost, the tariff does not in many instances directly affect the price. Statistics of the Department of Labor, issued August, 1940, substantiate the foregoing statement. In 1932, when the duty on Cuban sugar was 2c per lb., the retail price paid by the consumer was \$9.6 as against an average of 100%. In 1933, after the sugar tariff had been reduced by presidential proclamation, the consumer price rose to 94.3. In subsequent years, after the duty had been reduced to .9c per lb. in the Cuban agreement, the price for the ensuing years was as

follows: 1934—97.9; 1935—100.7; 1936—99.6; 1937—101.2; 1938—97.9; 1939—100.6 and for the first eight months of 1940 it stood at 100.5.

A comparison of Monograph and Tariff Commission statistics is interesting, if not enlightening. Beet sugar (granulated): 87 domestic plants, of which 4 produce 76% of the entire production, according to the Monograph, while the Tariff Commission states that six importing concerns import almost all the Cuban raw sugar. Incidentally, the Federal Government has paid a subsidy of $\frac{1}{2}$ c per lb. to domestic sugar growers. This case is merely one of many which tends to prove that prices of imported commodities are probably all that the consumer will bear.

"Tariff protection of rayon yarn (principal weights only) imposed in 1937 and 1938 an additional cost on the consumers of \$139,171,000." (Monograph, Page 11.)

In conjunction with the above, it might be well to consider the following:

"Dr. James has made a study of only two commodities, sugar and rayon yarn, and arrived at estimates well corroborated by scientific studies independently made that the tariff in these two commodities alone probably costs American consumers more than a quarter billion and possibly as much as a third of a billion dollars a year." (Theodore J. Kreps, Monograph, Page X.)

Answer: The estimates as to rayon yarn "well-corroborated by scientific studies independently made", were derived by multiplying the difference between the invoice or entered price of imported yarn and the domestic price of rayon yarn by the total number of pounds sold. They fail to take into consideration various items of cost, including profit for the importer. Under such circumstances, these estimates "well-corroborated by scientific studies" are at least open to serious doubt, if not utterly valueless.

"A substantial reduction of the duty on rayon yarn ("the most important" of 11 listed textile products) will probably allow imports to serve as a partial regulator of domestic prices." (Monograph, Page 17.)

Answer: Imports are small not so much because of the tariff but rather because most foreign countries that produce and export rayon yarn, particularly Japan, are involved in war. When the millions of men now in arms are returned to peace-time pursuits the ensuing results upon our national economy may be disastrous. Irrespective of present conditions abroad, competition between domestic yarn producers has lowered the price. In the meanwhile, scientific research has increased the quality. This reduced price and higher quality of the domestic product have overcome the initial consumer prejudice against synthetic fibers.

"Removal or substantial reduction of duties which are related to the industry's products (starch) would allow foreign selling to become a partial regulator of domestic prices." (Monograph, Page 15.)

Answer: This statement, which might be applied to many industries enumerated in the Monograph, is not necessarily so. As is shown in a previous case, neither the foreign value nor the amount of duty, which is levied on the foreign wholesale value, has much effect on retail prices of imported merchandise, for such prices are apt to be set at whatever level it is thought the consumer will pay.

The analysis of the wood and paper group, which consists of 16 products in the wood and paper industries having a total value of \$112,741,142, is on page 17 of the Monograph. The conclusion on cigarette paper, which is a fair sample of the findings pertaining to the entire group, reads:

"A substantial reduction of the duty would increase imports and would lower prices." (Monograph, Page 17.)

Answer: Under the trade agreement with France, effective June, 1936, the rate of duty was reduced from 60% to 45%, which is equivalent to a reduction of 25%. Testimony given by an official of the Tariff Commission, which is both interesting and enlightening, reads in part: "The consumer of cigarette paper is the manufacturer of cigarettes. The Commission has no information as to the extent to which savings through lower duties have been passed on to the American cigarette manufacturer in lower prices for imported paper and to what extent retained by *French paper manufacturers and importers*. In some cases the American cigarette manufacturers are affiliated with one or the other of these groups. In any case the cost of the paper is such a small part of the cost of a cigarette that a reduction of 25 per cent in the duty on cigarette paper could not be expected to result in a lower retail price for cigarettes." Incidentally, the principal importers of cigarette paper are only six in number.

Regarding Chemicals and Allied Products the Monograph concludes that:

"The existing duties are a partial support for monopolistic elements in the domestic industry." (Monograph, Page 20.)

Answer: It is admitted previously on page 20 of the Monograph that "The European Dye Cartel composed mainly of German, Swiss and French companies allocates markets, formulates prices, etc." It is a matter of record that prices of

chemicals were much higher when there was no real potent domestic industry and the European Cartel fixed prices in the American market. The German chemical industry, which is by far the strongest factor in the European Cartel, assumed the arrogant attitude, during World War I, that it could force many American industries to shut down by withholding supplies of dyes, chemicals and medicinals. Why then, in a discourse on monopoly, is a policy advocated which might again place America in the grasp of a foreign monopoly?

Regarding machine tools and equipment, the Monograph finds that

"In view of the basic importance of this industry to the economy of the country, additional information is needed with regard to its organization and its status in international trade." (Monograph, Page 25.)

Answer: American machine tools are known throughout the world for their excellence, with recognition especially for automatic and semi-automatic tools. Exports in ordinary times are about one-fourth of the domestic production. Because of war and preparation for same, the rate of exports in 1938 increased to approximately one half of domestic production.

The conclusions generally given in the Monograph are that a reduction or removal of duty either would have "very little effect on the import-domestic price situation" or, in very few instances, "would lower prices slightly". Such conclusions, in view of what may happen when peace is restored, are simply predicated on assumption. For instance, American exports of machine tools in 1938 amounted to slightly more than \$100,000,000; about 21% going to Japan and more than 35% to Russia, with the probability in the second case that a large part eventually reached Germany. Exports to Great Britain were about 15%.

Prices of British, German and Japanese tools are below American prices, and Germany's exports are approximately equal in value to American exports in normal times. After the war, those nations which have been geared for huge production, simply because of the great demand for military purposes, will have to find outlets in international trade. It is well known that foreign makers, particularly German and Japanese, formerly reproduced American designs and offered the reproductions in the American market at prices below those of domestic machines. Because such practices have been exercised in the past, it is logical to assume that they may be exercised in the future, after peace is restored. So it seems somewhat premature to assume that a reduction in duty would have "very little effect upon the import-domestic price situation".

As cited above, Russia is the largest importer of American machine tools. One example is sufficient to show, under existing conditions, the seriousness of such imports. In 1938 the Soviet Government bought only \$230,000 worth of oil-drilling equipment, out of total imports of machine tools from America amounting to \$35,000,000. A single shipment of 40 complete drills, worth more than \$1,000,000, was sent to Russia in December, 1940. This type of American drill, having a daily capacity of 25,000 to 30,000 bbls., is portable and is of such high quality that it would last for years. Needless to say, oil is a vital war material. Those machines may some day be used to the detriment of America.

As to electrical machinery, equipment and related products, the Monograph's findings read in part:

"The General Electric Company, for example, is the largest domestic producer of electric lamps and several other kinds of electrical equipment. It is also connected, directly or indirectly (International General Electric Company) by financial interests and agreements with many important foreign companies. . . . Removal of duties in certain instances might not be followed by any appreciable increase in imports, but domestic prices might be lowered in order to discourage any attempts of foreign selling in the domestic market by independent companies or by potential violators of agreements." (Monograph, Page 26.)

Answer: The above deductions hardly parallel those from the inference taken from wholesale prices, before Japan became embroiled in war, of domestic lamps and competing imported Japanese lamps:

American			Japanese		
		Per C			Per C
15 W	I F	\$10. 00	15 W	I F	\$3. 33
25 W	I F	10. 00	25 W	I F	3. 33
40 W	I F	10. 00	40 W	I F	3. 33
50 W	I F	10. 00	50 W	I F	3. 33
60 W	I F	10. 00	60 W	I F	3. 33
50 W	Clear	12. 50	50 W	Clear	3. 08
75 W	Clear	15. 00	75 W	Clear	5. 30
100 W	Clear	15. 00	100 W	Clear	6. 70
150 W	Clear	25. 00	150 W	Clear	10. 00

Miscellaneous Products (Page 26) include 36 commodities, all of which are subject to duties, with the exception of binder twine. Due to the various types of commodities considered, it is difficult to reach satisfactory conclusions. From statistics given, it would seem that this particular section hardly warrants the "study" made. For instance, these 36 commodities are manufactured by 1,107 companies having a total output of \$1,353,707,072. But 86.3% of this total, amounting to \$1,160,125,549 is manufactured by 818 companies and is subject to duties that are "not restrictive" and, furthermore, have "no effect on monopoly". Nevertheless, the findings as to one product (slide fasteners or zippers) is "A substantial reduction of the duty would increase imports, would lower domestic prices, and would assist in offsetting monopolistic elements in the domestic industry" (Monograph, Page 27.)

Answer: The duty on zippers or slide fasteners was in 1936, after an investigation of the difference between the domestic and Japanese production costs, increased from 45% to 66% by presidential proclamation. It is a question, therefore, as to the accuracy of the findings of Prof. Clifford James as compared with those of the Tariff Commission, which were accepted by the President.

VARIOUS ITEMS OF THE MONOGRAPH CHOSEN INDISCRIMINATELY

"If a tariff were levied on coffee, for example, consumers would pay more for coffee and the additional payment would approximately equal the revenue collected by the Government." (Monograph, Page 79.)

Answer: The logic of this statement is self-evident, as coffee is not produced in the United States. Nevertheless, a duty levied even on coffee might redound eventually to the benefit of the American consumer. For instance, as a war revenue measure we levied a duty of 3c per lb. up to 1872. Coincident with the free-listing of coffee, Brazil, the world's largest producer, imposed an export duty, and that tax was levied for the specific purpose of getting money from American consumers. If we, her largest customer, had reimposed an import duty, it is quite possible that Brazil would have had to withdraw her export tax. Even though she were not forced to do so, it is questionable whether American consumers would have had to pay an added price to cover such duty. According to an officer of a prominent importing concerns, it is probable that local jobbers would have paid half of it and Brazilian producers would have absorbed the other half. This official is quoted as saying: "If coffee were to go up 2c per lb. I doubt very much whether it would mean much change in the retail price except in the extremely low grades, which are the smallest end of consumption."

"The difference in price between the domestic product and the imported product, exclusive of the duty, or between the domestic price and the price in a non-restricted market, measures approximately the additional consumer's cost which in this case is paid to domestic producers and represents a form of subsidy." (Monograph, Page 79.)

Answer: While the inference from the above statement is convincing, many examples show the fallacy of it. For instance: there are, or were prior to the Sino-Jap war, two cigarette lighters so similar that the purchaser could only tell the difference by the country-of-origin marking. The wholesale price of the domestic article was 6c; the foreign wholesale price, on which the duty was levied, of the Japanese article was 0.8 cents. A duty of 200% (far above that imposed) would be 1.6c and cost of transportation 0.08c, which would make a total landed cost of less than 2½c. The domestic and the imported articles sold at the same retail price. Naturally, the Japanese article drove the domestic out of the American market, but the consumer benefited not one iota.

Woolen and Worsted Fabrics. (Page 134): "A substantial reduction in duty, including the duty on raw wool, would increase imports greatly and would lower prices appreciably." (Monograph, Page 135.)

Answer: A reduction of duty would lower prices appreciably to whom? The wholesale prices of woollens and worsteds vary on an average not over 40c per yard, and in extreme cases might reach 50c per yard. It takes 3½ yds. to make a ready-made suit and not over 3½ yds. for a custom-made. Even though raw wool were put on the free list, the entire elimination of the duty of 34c per lb. on raw wool would not affect the retail price of a suit of clothes. For example: before the Sino-Jap war blue serge made in Japan or Australian wool sold at wholesale (duty paid) in the American market for \$1.30, while the wholesale price of comparable domestic blue serge was \$1.85 per yard. The consumer could not tell when buying a blue serge suit whether the cloth was domestic or imported. The price was probably the same in either case, unless the suit was sold on the glamour of the word "imported", which probably meant that the consumer paid more.

DRY BATTERIES

"A substantial reduction of the duty would increase imports primarily of the smaller, cheaper types and would lower prices slightly." (Monograph, Page 279.)

Answer: Dry batteries are manufactured in the United States by at least ten independent and competing concerns. The smaller, cheaper types are sold at 5c and 10c, according to size, by the "5 and 10" and chain drug stores. They sell at universally recognized prices, and a reduction of duty on the imported would not lower the retail price paid by the consumer.

When a reciprocal trade agreement was being negotiated with Great Britain, public hearings were held by the Committee for Reciprocity Information, which included experts from the Tariff Commission and the Department of Commerce, and the American negotiators were guided, in a measure, by the recommendations of that Committee. Though recommendations to reduce the duty from 35% to 25% on a number of electrical apparatus and appliances were made, dry batteries were specifically exempted.

FLASHLIGHT CASES

"A substantial reduction of the duty would increase imports, especially of the cheaper grades, and would lower prices slightly." (Monograph, Page 279.)

Answer: Piracy of design, with utter disregard of American patents, is not infrequently encountered in merchandise from Japan. It is difficult to combat because legal action is costly and, if judgment were obtained, it would hardly be collectible. These imported articles are sold at ruinously low prices. For instance, an American-made flashlight, of which there are at least a dozen domestic manufacturers, sells with lamp and battery at retail for 59c. The imported article, which could be identified only by the country-of-origin marking, whole-sales without battery but with lamp for 2c and is retailed with battery to the American consumer for 39c. The importer of the Japanese flashlight took advantage of the advertising paid for by the American manufacturer. This type of flashlight was abandoned because the American producer was forced to change his article frequently in order to keep ahead of the Japanese who had pirated his product and infringed upon his patent.

THE FINDINGS ON PHOTOGRAPHIC DRY PLATES AND SLIDES, SENSITIZED PHOTOGRAPHIC PAPER, PHOTOGRAPHIC FILM, PHOTOGRAPHIC X-RAY FILM AND MOTION-PICTURE PROJECTORS

The findings on these items are respectively that 1) a reduction of the duty would have little or no effect on the import-domestic price situation, 2) would lower prices, 3) would have only a moderate effect with regard to import-domestic price situation, 4) same as 3, and 5) would lower prices slightly. (Monograph, Pages 307, 308, 309 and part of 310.)

Answer: In reply a case, suggested by actual experience, is taken. It is chosen because there is a general realization that industries in this particular field of production are large. The Monograph admits, in certain instances, that "Imports are mainly from foreign countries which have American-affiliated companies".

Domestic Company A finds that the foreign cartel is exporting its product to its American-affiliate B, which in turn sells the foreign-made merchandise at cost of possibly below cost. Company A, in order to fight this sort of competition, desires to sell its product abroad at cost or possibly below cost in markets controlled by the foreign cartel. Neither federal administrative executives nor congressional leaders, irrespective of political connections, can guarantee the domestic Company A that some demagogue, in an effort to get headlines in the press, won't attack the said Company A for selling abroad cheaper than it sells to the American consumer, who has no knowledge of the tremendous struggle being waged between foreign and American producers.

Domestic Company A is advised, by a federal executive that the logical way to combat such a situation is either to erect or procure a plant in some neighborly land, such as Canada, from which it can sell abroad without danger of investigation. Finding that its Canadian plant is successful, Company A either builds or procures additional plants in countries abroad.

Then the tariff is lowered on products made by Company A. The foreign cartel, because it is now able to supply its American demand direct, stops production in its American-affiliate B. Domestic Company A, in its effort to meet competition under such circumstances, might be placed in a position where it

would be expedient to close its domestic plants and supply its American trade by importing from its foreign subsidiaries. This paradox might be financially beneficial to the Company; there is no proof that its merchandise would be sold at a lower price to the American consumer, but it is quite evident that such a move would result in distress for American wage earners, who would thereby lose their jobs.

PHONOGRAPH NEEDLES

"A substantial reduction of the duty will increase imports and would lower prices." (Monograph, Page 318.)

Answer: Foreign competition, which formerly was from Germany, has for many years been centered largely in imports from Japan. Due to the smallness of the article, the domestic producer is not protected by the country-of-origin marking, so it is practically impossible for the buyer to recognize the imported product. In fact it is quite possible that an unscrupulous person might take advantage of the low foreign selling costs by offering the imported merchandise as his own brand. The foregoing statement is verified by the following excerpts, taken from a communication from Tokyo to a domestic dealer: "1) In case amount of your one order (is) over 1,000,000 needles, we are able to make yours designated name and can. 2) If you want further samples, we would (be) willing to send to you in plenty."

There is, irrespective of fluctuations in wholesale prices, a uniform retail price of 10 cents for package of 100 needles. Both the domestic product and the competing Japanese article retail at that established price. Incidentally, in spite of the Sino-Jap conflict, imports during the last year, from January to November, inclusive, exceeded 61,600,000 needles. A reduction in duty might result in lower costs to the importer, but it would have no effect on the retail price paid by the consumer.

CONCLUSION

Monograph #10—Industrial Concentration and Tariffs—is of interest to students of national economic policies, especially those adopted to correct uneconomic conditions suffered by a large part of the people. Its deductions seemingly emanated from the mind of economic theorists who have never tripped the lamp of practical experience, for its findings fail to recognize the numerous ramifications entailed therewith. Its definite conclusion in most instances is that a reduction of duty would increase imports and lower prices. While it is self-evident that reductions in duty would increase imports, the Monograph presents no evidence to prove that an increase of imports would lower prices, at least to the consumer.

A convincing example, which shows the lack of such proof, is the well-publicized case of "a beautiful party gown covered with hand embroidery, costing \$7.40 in France, hand made and competing with no American product, retails here for \$65, because the tariff on it is 75%; and the cost of getting it through the Customs House is sometimes 10%". The original wholesale cost in France is \$7.40, the tariff levied on the foreign wholesale value is \$5.55, and the cost of getting it through the Customs House (transportation, insurance and freight) is 74c, which totals a landed cost of \$13.69. That duty of \$5.55 had little if any effect in raising the wholesale cost of \$7.40 to the retail price of \$65. If the duty were eliminated entirely or even reduced, the cost to the importer might have been less; but there is no proof whatsoever that there would have been a reduction in the retail price paid by the consumer.

Monograph #10 pertains exclusively to competitive imports, which are dutiable, and utterly disregards those that are non-competitive, which are on the free list, with the exception of some that are subject to a revenue duty. It neither touches upon nor hints at the actuality or even the possibility that an increase of competitive products imported from abroad displaces a like amount of comparable domestic products and thereby reduces opportunities for employment. When those millions of foreigners now in military uniforms again seek their livelihood in industrial pursuits, after martial strife is succeeded by economic war, they will be forced by necessity to accept wages lower than the traditionally low foreign wage rates in order to derive a meager existence. This condition will accentuate the wide differential between domestic and foreign production costs and lowered tariffs will stimulate exports of cheaply produced foreign merchandise to our markets.

Furthermore, depreciated foreign currencies, which in many instances may be practically valueless, will make it easier for foreigners to sell their wares in America and more difficult for them to buy American commodities. A report issued by the Director of the Bureau of Foreign and Domestic Commerce which has not been refuted, reads in part as follows. "It is recognized that depreciated exchange

rates of European currencies as compared to the American dollar raise the price of our products to prohibitive figures and act as a check on exports to that market."

This situation may lead to the experiment of stabilizing foreign currencies at higher levels in an effort to correct foreign trade conditions, by sending abroad gold that cost us \$35 an ounce. The American people would probably then be confronted with a loss more serious than that which they have already suffered. The less we bend to foreign pressure and the more we minimize internal problems by fortifying the stupendous potentialities of our own domestic economy, the weaker will be repercussions from foreign strife. Second only to keeping clear of military entanglements is the avoidance of economic involvement in this world crisis.

Monograph #10 delves into almost all lines of industrial production which are susceptible to foreign competition. In order to conserve both space and the reader's patience, it seems expedient to confine consideration mostly to the textile industry, which seems to be the butt of downward tariff revisionists.

The manufacture of textiles antedates history, and archaeologists are unable to define its origin. Textile production has advanced wherever the slightest progress in civilization has been achieved. The natural market for all industries, including textiles, is the home market. When the saturation point of market is reached, industry seeks other outlets to be found in export trade. Many nations produce more textiles than they consume, so textiles have become a big factor in international trade.

The American trend has been to increase earnings per hour and at the same time decrease units of work. If other countries produce cloth at a lower cost per yard than we do, it is not because our wage earners are not skillful; it is not because our machinery is not the best, for American machinery and American methods have been adopted by other nations; it is not because of inefficiency of management, whose mass production practices are the marvel of the world; but rather because wages, along with other items, are so much lower abroad.

There is no denial that textile wages are low in comparison with those paid in other domestic industries. Nevertheless, those who toil in the American textile industry are the highest paid textile workers in the world. It would be illogical to jeopardize the continuance of an industry that is the means of livelihood for more than 1,500,000 American wage earners.

A reduction in textile tariff rates, according to Monograph #10, would increase imports and lower prices. As previously shown, a reduction in tariff would not necessarily lower prices to the consumer. It would increase imports, which would displace textiles produced by American wage earners. The resulting effect would be not only disastrous to those who toil in the domestic mills but would endanger the welfare of countless additional Americans, such as doctors, lawyers, clergymen, school teachers, storekeepers, tradesmen, whose living largely depends on supplying the needs and requirements of textile employees.

Likewise, when imports are prevented from competing ruinously with domestic production, car loadings are greater and thereby railroad workers receive the benefit of greater employment, because imports are generally sold in large consuming sections surrounding ports of entry. In other words, greater haulage of freight from domestic points of production to destination in the neighborhood of importing centers, such as Boston, New York, Philadelphia, Galveston, etc., permits common carriers to increase employment opportunities to American workers.

Furthermore, the Fair Labor Standards Act may, because of an influx of imports produced by poorly paid foreign labor, become largely a "dead letter" law. The evils of bootlegging during the prohibition era are widely realized. Destructive competition from cheaply produced imports, due to tariff reduction, may tend toward bootlegging in wages and hours of work. American wage earners, whether unionized or not, will be confronted with a serious situation shortly after military strife is supplanted by economic war in world trade.

Every patriotic citizen endorses and the American public guarantees lavish appropriations now being expended for war defense. It is high time for all to devote serious consideration to creating an adequate economic defense against unpredictable disruption that will follow the consummation of peace treaties. America is extending her utmost in assisting Great Britain in her heroic efforts to overcome the tyranny of totalitarianism. Likewise, America will contribute liberally in the rehabilitation of nations ravaged by the chicanery of dictatorship. The weak cannot be strengthened by weakening the strong. America can do her best by all not merely in maintaining her present strength but rather by increasing it to the full limit of her virility. She can achieve a maximum of strength only by

retaining control of her own markets, which are the Samson locks that opinionated domestic Delilahs are ready to clip for the benefit of avaricious foreign Philistines. In the final analysis, we must erect a defense, both military and economic, that will withstand totalitarian attacks from without and repel socialistic ideology from within.

MARCH, 1941.

REJOINDER BY CLIFFORD L. JAMES AND EDWARD C. WELSH TO STATEMENT OF THE HOME MARKET CLUB RE T. N. E. C. MONOGRAPH NO. 10, INDUSTRIAL CONCENTRATION AND TARIFFS

In this brief response not all of the comments in the Home Market Club's Review can be included. A correction, however, of a few of the misinterpretations of the monograph will indicate to the reader the nature of the Review. The first six criticisms, for example, refer to the letter of transmittal and have little to do with the findings of the investigation. They do indicate an unusual lack of information on the part of the author of the Review with regard to the nature and probable effects of import duties.

The author, for instance, seems to be unable to grasp the meaning of a "disadvantageous industry". Excluding the modifications which may arise during war conditions, a disadvantageous industry is one which is permitted to produce with the aid of tariffs when the same amount of goods could be obtained from abroad in exchange for a smaller expenditure of labor and capital in some other domestic industry. The tariff often prevents the consumers in the U. S. from obtaining that larger total income, which would arise from the more efficient uses of our labor and capital, and hence, the maintenance of such industry can be considered as contributing to a national loss.

In the last of the criticisms upon the letter of transmittal the author suggests that the reciprocal trade agreement program has been helpful to the monopolies because it has increased foreign trade. This seems to be an important point because it appears several times in other portions of the Review. How lower trade barriers, which the author admits would increase competition, would aid the domestic monopolies is a bid difficult to see. Perhaps the reciprocal part of the program is not understood by the author or perhaps he fails to see how much easier domestic monopolies can allocate the unprotected portion of the world market when they themselves are hiding behind high trade walls. In any event, the position that monopolistic industries, such as steel, are interested in lower tariffs is untenable.

In the monograph (page 2) it is stated that "when tariffs exclude effectively foreign sellers of a given product from the domestic market, monopoly in some cases may be fostered, or at least facilitated". The author of the Review admits that this statement is true, but then feels that he is adding to it, or is criticising the statement when he adds; "but monopoly in itself is not necessarily either good or bad." The point made in the monograph is not one of justifying or condemning at this juncture, the resultant monopolies, but simply states the supportable truth that the tariff sometimes fosters monopolies. The author's point is simply that when monopolies are ethical they are beneficial. He has apparently overlooked the simple fact that to be good (ethically) does not necessarily mean to be good (economically).

One of the most untenable criticisms of the monograph is based upon the premise that "combinations, consolidations, and mergers are generally consummated in the interest of efficiency." There are, of course, several definitions of the term "efficiency" and if the author considers efficiency to be a situation which exists when production is curtailed to afford larger profits at a higher (scarcity) price, then his premise is probably correct. However, if he considers efficiency to mean the obtaining of a large output with a small input, then the supply-restricting purposes of the monopoly could not be served by an efficiency motivation. If this restrictive policy of monopolies results in high prices, the author says that a flood of imports would correct the situation. Thereby, he gives his case away and at the same time presents a case upon which both he and the monopoly would start to lobby for a still higher tariff so that the monopoly could continue, to exploit the consumer without benefit of succor from foreign producers.

In the monograph (page 3) it is stated that "the same factor (transportation) with sanitary and other administrative restrictions eliminates foreign selling of many types of goods and services in the domestic market . . ." the author

emphasizes this point by an illustration and then says but that is not the tariff. Careful reading of the statement deleted from the monograph by the critic (and quoted here) nets the brief response—"And no one said that it was!" Transportation and administrative trade barriers are not customs duties. They do, however, act to hinder the entry of foreign goods into the domestic market and, in that respect, have effects similar to tariffs.

Exception is taken to the statement that there were no important downward revisions in the U. S. tariff between 1890 and 1913. The author has used a count of the number of duty reductions in the 1894 tariff as evidence of considerable downward revision. This is a spurious technique as reduction in ten items of major importance to consumers should be considered much more of a tariff reduction than the outright removal of duties upon 500 other items in which the public has no interest, or in which the domestic producers market more efficiently anyway. Professor Taussig has written (*Tariff History of the U. S.*; Putnam's Sons, N. Y., 1914. Page 317) that "the new tariff (1894) made no deep-reaching change in the character of our tariff legislation. The one exception was the removal of the duty on wool. . . . A slice here . . . a shaving there . . . but the essentially protective character remained."

The rest of the criticisms of Chapter I of the monograph are quite similar to those examined briefly above. They make no tenable attack upon the reasoning, or the facts as stated, but simply use the statements as springboards for a general indictment of the reciprocal trade agreement program, foreign producers; and anyone who can show the social advantages of lower trade barriers. Since they are based on faulty premises and implemented by fallacious reasoning, they do not merit individual attention.

In Chapter II of the monograph, the author attacks several statements about the cost to consumers of the restrictions on imports of rayon and sugar. He maintains that trade barriers do not affect the price of sugar in the U. S. and his proof lies in the fact that, when the U. S. removed restrictions on entry of sugar from Hawaii, the U. S. price did not fall. The portion, however, of the total supply of sugar entering the U. S. market from Hawaii was so small that it could have little effect upon the price. If the tariff removal had been on all sugar imports no matter from what source (and there was not a quota arrangement substituted), it is very likely that the sugar price would have fallen. Even if the sugar price didn't fall, it would possibly be desirable to use some of the capital and labor employed in beet sugar production in the U. S. in industries where they are more efficient and still buy more of our sugar abroad. The author, however, reiterates that "the price in many cases is not based on cost and bears little if any relation to cost (and hence) the tariff does not in many instances directly affect the price." Such a statement weakens rather considerably contentions elsewhere that tariffs are needed because U. S. costs are higher than foreign costs.

The comment of the Home Market Club with regard to imports of rayon yarn is a unique combination of errors and inconsistencies. "Imports are small," we are informed, "not so much because of the tariff but rather because most foreign countries that produce and export rayon yarn, particularly Japan, are involved in war." In the monograph (page 86) the statistical situation is summarized as follows: "Since 1929 (domestic) production has increased by more than 100 percent while imports have declined to only a small portion of their former level". Historians, apparently, will have to place earlier the date of the outbreak of recent hostilities, or the Home Market Club will have to revise its statistical interpretation. The latter alternative seems to be the sensible, practical procedure. In the next sentence, however, the Club becomes a trifle uncertain about its statement of the effect of the tariff on imports of rayon yarn because it warns that in the post-war period "the ensuing results upon our national economy may be disastrous". Since the comment ends by emphasizing the "competition between domestic yarn producers" and the "reduced price and higher quality of the domestic product", the Club agrees with the analysis of the monograph, namely: "If consumers' cost of import restrictions on rayon yarn is to be reduced significantly, the duty will have to be greatly reduced, or eliminated entirely (page 89)."

Referring to the analysis of the corn wet-milling industry, the Club opines that "neither the foreign value nor the amount of duty, which is levied on the foreign wholesale value, has much effect on retail prices of imported merchandise, for such prices are apt to be set at whatever level it is thought the consumers will pay". The domestic producers, however, who have "trimmed the lamp of practical experience", held a slightly different opinion in 1938 when they requested formally that the agreement with the Netherlands be revised in order to eliminate the binding of tapioca and sago on the free list (page 15).

A brief reference in the monograph to coal-tar dyes (pages 19 and 20) is questioned by the club on the basis of an apparent oversight. It asks—"Why then, in a discourse on monopoly, is a policy advocated which might again place America in the grasp of a foreign monopoly?" The answer is that no such policy is advocated in the monograph (pages 19 and 20). In a similar fashion an answer to the comment of the Club concerning the post-war trade in machine tools will be found in the monograph (page 10); to the comment on the trade in electric lamps (pages 280 and 281); to the objection, presented in an example of prices of cigarette lighters, with regard to calculating consumers' costs of a tariff; pages 79 and 80); etc. In judging other references made by the Home Market Club to specific commodities, the reader is invited to consult the monograph.

A reply to one concluding statement of the Club is offered as a conclusion to this brief rejoinder. The Club laments that "the monograph presents no evidence to prove that an increase of imports would lower prices, at least to the consumer". The authors of the monograph agree that a more extensive investigation is needed, especially with regard to monopolistic practices which may prevent the benefit of reduced duties from being passed on to consumers.

STATISTICS ON THE TAXATION OF CORPORATIONS

Submitted by CLIFFORD J. HYNNING, Department of Commerce

A LISTING OF 682 RETURNS

This report is entirely factual. It contains no analysis or interpretation.¹ The report sets forth the figures on the tax payments of 682 manufacturing and trade corporations for the period 1934-37, as supplied to the Temporary National Economic Committee by the companies themselves. Certain other economic facts, e. g., sales, profits, and profit and capital ratios, are also set forth as taken from the records of the Securities and Exchange Commission.

The companies included in this report are primarily manufacturing and trade corporations which are subject to the Securities Act of 1934. Their registration statements, filed under the requirements of and subject to the sanctions of the said Act, provide a wealth of information on the economic activities of large-scale corporate enterprise in the United States. The tax information contained therein, however, was not sufficiently detailed for useful analysis, consisting of only two aggregate items in the profit-and-loss statement namely, (a) taxes (other than income) charged to operations and (b) provisions for income taxes.

In order to supplement this information a special tax questionnaire was sent out, on behalf of the Temporary National Economic Committee, by the Department of Commerce to all corporations engaged in manufacturing and trade and registered under the Securities Act of 1934. The accompanying letter pointed out that the tax information was requested on a voluntary basis in connection with special studies of the Department on business taxation for the Temporary National Economic Committee and that the filing of the questionnaire was not subject to the requirements of the 1934 Act.

Giving this information involved considerable time and expense for the individual corporation, but the response was very generous. The Companies were asked to report their taxes for the last 5 years on the same basis as that used as their annual report on Form 10-K to the Securities and Exchange Commission. Most of the corporations filed the tax questionnaire on a consolidated basis, comparable with other data filed with the Securities and Exchange Commission. These returns are as a whole not comparable to the type of returns given in Statistics of Income, which have been on an unconsolidated basis since 1934. Taxes reported included only such taxes as were paid directly to a governmental body, even though the firm might be billed for other taxes by a seller. Some companies reported taxes as estimated for the year in question while others reported actual payments

¹ See other tax studies prepared for the Temporary National Economic Committee by H. Dewey Anderson, *Taxation, Recovery, and Defense* (Monograph No. 20); by Gerhard Colm and Helen Tarasov, *Who Pays the Taxes?* (Monograph No. 3); and by Clifford J. Hynning, *Taxation of Corporate Enterprise* (Monograph No. 9).

for the year. Others gave the payments as made and then the adjustments that subsequently took place.

According to the instructions, the amount of taxes should coincide with the sum of "the taxes classed as (1) operating expenses and (2) charges on net income" in the annual report on Form 10-K to the Securities and Exchange Commission. If they did not, the company was requested to give a reconciliation. For most cases, taxes did not agree with those listed for the firms in the Survey of American Listed Corporations, and some returns gave no reconciliation. The greatest number of discrepancies arose in the Federal income-tax item because the Securities and Exchange Commission asks for "provision for" income taxes. Almost without exception, the companies reported a lower payment than the amount set aside (except in the case of the large steel companies, which gave the estimated payments). A further discrepancy arose from the fact that the Securities and Exchange Commission included under this heading: "Federal taxes on income, excess profits, and undistributed earnings; State taxes on income; and foreign taxes on income."

The report is arranged alphabetically by name of company. In certain cases the footnotes indicate that the figures for a specific company may not be strictly comparable with one another for the same or other companies because of changes in accounting methods or periods. A list of companies which did not file the questionnaire with the Department of Commerce or which requested confidential treatment of the data is on file with the Department of Commerce.

DEFINITION OF TERMS

Profit ratio.—This ratio was computed by taking the net operating result for the period before interest, prior claims, and income tax, and dividing this amount by the total of invested capital at the end of the period. Invested capital consists of (a) long-term debt including Treasury bonds carried as assets; bonds held in sinking funds; bonds of subsidiaries consolidated held by subsidiaries consolidated, and long-term debt due within 1 year for which funds had already been earmarked, and (b) net worth, i. e., capital stock and surplus less deficit carried as an asset, Treasury stock carried as an asset, preferred stock held in sinking fund, and discount on capital stock plus minority interest.

Equity ratio.—This ratio is that of net worth (as previously defined to total debt (including long-term debt and current liabilities).

ABBOTT LABORATORIES

[\$000's]

	1934	1935	1936	1937
Sales.....	5, 193	6, 118	7, 768	9, 510
Gross profits.....	3, 629	4, 377	5, 439	6, 557
Net income.....	1, 076	1, 305	1, 681	1, 965
Profit rate.....	23. 02	23. 11	21. 05	19. 40
Equity ratio.....	7. 29	6. 48	9. 33	9. 39
Federal corporate income tax.....	148	178	248	302
Undistributed profits tax.....			12	38
Federal capital stock tax.....	9	25	27	24
Federal excises.....	1	2	2	2
Federal-State payroll taxes.....			24	79
State income taxes.....	1	6	12	14
State sales taxes.....	8	7	4	6
Property taxes.....	18	18	23	23
State corporate taxes.....	2	2	4	6
Miscellaneous.....				
Total taxes.....	187	238	356	494

ACME STEEL COMPANY

Sales.....	9, 408	13, 868	16, 729	19, 837
Gross profits.....	4, 066	5, 492	6, 648	7, 006
Net income.....	1, 255	2, 093	2, 645	2, 338
Profit rate.....	11. 82	21. 42	23. 85	19. 20
Equity ratio.....	5. 33	5. 58	4. 15	4. 01
Federal corporate income tax.....	171	291	382	336
Undistributed profits tax.....			85	74
Federal capital stock tax.....	18	20	32	31
Federal excises.....	3	1	0	0
Federal-State payroll taxes.....			40	143
State income taxes.....	0	X	2	4
State sales taxes.....	1	3	3	4
Property taxes.....	67	81	82	92
State corporate taxes.....	2	4	4	4
Miscellaneous.....				
Total taxes.....	262	400	630	688

AINSWORTH MANUFACTURING CORPORATION

Sales.....	6, 435	7, 823	9, 177	8, 982
Gross profits.....	1, 297	1, 734	1, 791	1, 810
Net income.....	661	1, 186	1, 164	1, 144
Profit rate.....	22. 47	33. 07	30. 69	27. 89
Equity ratio.....	6. 85	3. 95	5. 11	8. 31
Federal corporate income tax.....	95	195	174	170
Undistributed profits tax.....			25	45
Federal capital stock tax.....	6	8	13	16
Federal excises.....				
Federal-State payroll taxes.....			16	51
State income taxes.....				
State sales taxes.....				
Property taxes.....	32	32	39	55
State corporate taxes.....	6	7	8	10
Miscellaneous.....	X			
Total taxes.....	139	242	275	347

.... indicate no data available.

X indicates less than \$1,000.

AIR ASSOCIATES INC.

[\$000's]

	1934	1935	1936	1937
Sales				1,450
Gross profits				351
Net income				102
Profit rate				18.77
Equity ratio				3.89
Federal corporate income tax				13
Undistributed profits tax				4
Federal capital stock tax				2
Federal excises				
Federal-State payroll taxes				5
State income taxes				2
State sales taxes				1
Property taxes				2
State corporate taxes				X
Miscellaneous				
Total taxes				26

Fiscal year ended Sept. 30.

AIRWAY ELECTRIC APPLIANCE CORP.

Sales		3,319	3,628	3,444
Gross profits		2,545	2,253	2,132
Net income		(121)	(153)	(363)
Profit rate		(10.13)	(8.65)	(26.70)
Equity ratio		3.35	2.18	1.46
Federal corporate income tax				
Undistributed profits tax				
Federal capital stock tax		2	3	2
Federal excises				
Federal-State payroll taxes			15	42
State income taxes				
State sales taxes				
Property taxes		12	16	12
State corporate taxes		4	8	11
Miscellaneous				
Total taxes		18	36	67

AKRON BRASS MANUFACTURING COMPANY, INC.

Sales		254	215	351
Gross profits		120	144	132
Net income		62	77	33
Profit rate		21.69	25.93	11.74
Equity ratio		9.44	5.93	3.62
Federal Corporate income tax	8	10	7	4
Undistributed profits tax			X	X
Federal capital stock tax	X	X	X	2
Federal excises	0	0	0	0
Federal-State payroll taxes			1	4
State income taxes	0	0	0	0
State sales taxes	0	0	0	0
Property taxes	1	1	1	1
State corporate taxes	X	X	X	X
Miscellaneous	0	0	X	X
Total taxes	9	11	9	11

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

ALAN WOOD STEEL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	7,705	8,479	13,541	18,927
Gross profits.....	2,120	1,925	3,419	5,325
Net income.....	(133)	(383)	639	1,685
Profit rate.....	(.82)	(2.49)	4.05	10.65
Equity ratio.....	5.17	4.69	4.01	5.76
Federal corporate income tax.....	17	5	55	259
Undistributed profits tax.....			46	139
Federal capital stock tax.....	11	12	14	15
Federal excises.....				
Federal-State pay roll taxes.....			39	147
State income taxes.....	X	X	31	75
State sales taxes.....	1	2	4	6
Property taxes.....	89	87	93	94
State corporate taxes.....	10	32	31	17
Miscellaneous.....	X			
Total taxes.....	125	138	313	782

ALASKA PACKERS ASSOCIATION

	1934	1935	1936	1937
Sales.....	5,561	6,342	5,080	5,102
Gross profits.....	2,792	2,121	1,920	1,977
Net income.....	1,425	1,060	598	429
Profit rate.....	13.30	9.42	5.37	3.92
Equity ratio.....	5.23	23.36	15.25	3.63
Federal corporate income tax.....	163	143	67	63
Undistributed profits tax.....				
Federal capital stock tax.....	13	13	13	13
Federal excises.....	41	9	31	31
Federal-State pay roll taxes.....			17	72
State income taxes.....	5	33	14	10
State sales taxes.....				
Property taxes.....	60	59	54	59
State corporate taxes.....				
Miscellaneous.....	9	1	1	1
Total taxes.....	294	258	197	249

ALLEGHENY LUDLUM STEEL CORP.

	1934	1935	1936	1937
Sales.....	21,800	28,124	42,357	49,627
Gross profits.....	8,249	7,504	9,473	11,686
Net income.....	1,364	2,049	3,700	3,886
Profit rate.....	12.67	19.45	28.07	28.86
Equity ratio.....	32.80	11.52	12.45	17.10
Federal corporate income tax.....	70	137	306	315
Undistributed profits tax.....			5	34
Federal capital stock tax.....	15	21	21	22
Federal excises.....				X
Federal-State pay roll taxes.....			112	355
State income taxes.....		42	118	92
State sales taxes.....				
Property taxes.....	115	127	159	131
State corporate taxes.....	1	78	87	125
Miscellaneous.....				
Total taxes.....	201	405	808	1,074

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

ALLEN ELECTRIC AND EQUIPMENT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....			786	668
Gross profits.....			337	243
Net income.....			121	38
Profit rate.....			48.02	14.64
Equity ratio.....			4.18	8.53
Federal corporate income tax.....			15	3
Undistributed profits tax.....			X	X
Federal capital stock tax.....			1	1
Federal excises.....				
Federal-State payroll taxes.....			3	7
State income taxes.....				
State sales taxes.....			X	X
Property taxes.....			2	2
State corporate taxes.....			1	1
Miscellaneous.....			X	
Total taxes.....			22	14

ALLEN INDUSTRIES INCORPORATED

	1934	1935	1936	1937
Sales.....	2,607	4,628	6,056	6,405
Gross profits.....	669	1,298	1,591	1,264
Net income.....	273	680	918	467
Profit rate.....	22.86	48.55	47.19	19.78
Equity ratio.....	4.13	2.78	3.55	2.64
Federal corporate income tax.....	37	136	135	75
Undistributed profits tax.....			47	24
Federal capital stock tax.....	3	7	10	11
Federal excises.....				
Federal-State payroll taxes.....			10	45
State income taxes.....				
State sales taxes.....				
Property taxes.....	18	22	23	34
State corporate taxes.....	3	3	4	5
Miscellaneous.....				
Total taxes.....	61	168	229	194

ALLIED KID COMPANY

	1934	1935	1936	1937
Sales.....			10,733	7,675
Gross profits.....			2,155	448
Net income.....			777	(604)
Profit rate.....			15.89	(14.96)
Equity ratio.....			2.36	4.99
Federal corporate income tax.....			138	0
Undistributed profits tax.....			21	0
Federal capital stock tax.....			9	6
Federal excises.....			0	0
Federal-State payroll taxes.....			57	66
State income taxes.....			8	X
State sales taxes.....			0	0
Property taxes.....			14	20
State corporate taxes.....			22	15
Miscellaneous.....				
Total taxes.....			269	107

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

ALLIED MILLS INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	28,795	28,085	35,928	26,068
Gross profits.....	5,751	6,359	6,143	4,148
Net income.....	2,589	3,235	2,884	797
Profit rate.....	30.04	30.53	24.33	6.62
Equity ratio.....	9.72	9.61	11.92	22.20
Federal corporate income tax.....	442	668	496	143
Undistributed profits tax.....			13	32
Federal capital stock tax.....	17	37	31	21
Federal excises.....	64			
Federal-State payroll taxes.....		8	45	75
State income taxes.....	4	6	8	7
State sales taxes.....	X	X	1	3
Property taxes.....	66	72	71	86
State corporate taxes.....	3	3	3	3
Miscellaneous.....	X	X		
Total taxes.....	596	794	668	370

ALLIED PRODUCTS CORPORATION

	1,773	2,411	2,844	2,956
Sales.....	1,773	2,411	2,844	2,956
Gross profits.....	501	690	868	971
Net income.....	117	269	397	374
Profit rate.....	4.39	9.43	13.51	12.31
Equity ratio.....	25.94	20.96	16.79	34.99
Federal corporate income tax.....	1	30	47	42
Undistributed profits tax.....			4	3
Federal capital stock tax.....	3	4	3	4
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			13	41
State income taxes.....				
State sales taxes.....				
Property taxes.....	26	27	27	27
State corporate taxes.....	2	2	3	4
Miscellaneous.....				
Total taxes.....	32	63	97	121

ALLIED STORES CORPORATION

	77,547	84,538	97,065	100,976
Sales.....	77,547	84,538	97,065	100,976
Gross profits.....	17,792	29,498	34,818	35,883
Net income.....	1,775	2,569	4,927	4,659
Profit rate.....	3.73	5.44	9.10	8.30
Equity ratio.....	2.25	1.65	1.29	1.39
Federal corporate income tax.....	155	260	606	543
Undistributed profits tax.....			22	226
Federal capital stock tax.....	28	52	69	73
Federal excises.....				
Federal-State payroll taxes.....			213	578
State income taxes.....	56	116	159	136
State sales taxes.....	35	40	33	40
Property taxes.....	1,166	1,197	1,265	1,314
State corporate taxes.....	41		48	
Miscellaneous.....	39	32	32	21
Total taxes.....	1,520	1,697	2,447	2,931

.... indicate no data available.

X indicates less than \$1,000.

ALLIS CHALMERS MANUFACTURING CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	20,332	38,787	58,949	87,311
Gross profits.....	6,518	12,056	18,952	28,979
Net income.....	(277)	3,255	6,398	11,220
Profit rate.....	(.45)	5.03	9.76	12.12
Equity ratio.....	2.65	2.34	5.82	1.64
Federal corporate income tax.....		492	1,215	2,341
Undistributed profits tax.....			650	665
Federal capital stock tax.....	19	56	83	90
Federal excises.....				
Federal-State payroll taxes.....			292	875
State income taxes.....			276	517
State sales taxes.....	2	2	1	2
Property taxes.....	618	600	654	769
State corporate taxes.....	14	12	24	61
Miscellaneous.....				
Total taxes.....	653	1,162	3,195	5,320

ALTORFER BROTHERS CO.

Sales.....	3,820	5,209	7,188	6,821
Gross profits.....	798	1,092	1,588	1,159
Net income.....	182	427	668	301
Profit rate.....	11.95	24.26	33.96	14.78
Equity ratio.....	11.52	5.84	2.66	6.33
Federal corporate income tax.....	12	62	102	45
Undistributed profits tax.....			31	8
Federal capital stock tax.....	3	4	10	6
Federal excises.....				
Federal-State payroll taxes.....			19	56
State income taxes.....	X	X	X	X
State sales taxes.....	1	1	4	3
Property taxes.....	17	17	18	23
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	34	85	185	142

ALUMINUM INDUSTRIES INC.

Sales.....	2,340	2,216	2,832	2,882
Gross profits.....	916	879	1,007	917
Net income.....	128	112	56	(61)
Profit rate.....	6.83	5.83	2.98	(3.50)
Equity ratio.....	7.21	4.31	4.22	2.53
Federal corporate income tax.....	17	15	14	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	2	2	2	2
Federal excises.....	15	16	20	17
Federal-State payroll taxes.....			8	26
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	19	13	14	23
State corporate taxes.....	2	2	2	2
Miscellaneous.....	1	1	1	1
Total taxes.....	56	49	61	71

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE AMERICAN AGRICULTURAL CHEMICAL CO. (OF DEL.)

[\$000's]

	1934	1935	1936	1937
Sales.....	15,663	16,210	19,722	18,440
Gross profits.....	5,691	5,281	6,856	6,534
Net income.....	1,533	1,134	2,296	1,606
Profit rate.....	8.43	6.30	12.30	8.73
Equity ratio.....	24.25	21.79	14.31	16.42
Federal corporate income tax.....		70	131	256
Undistributed profits tax.....				
Federal capital stock tax.....	16	15	15	15
Federal excises.....				
Federal-State payroll taxes.....		15	94	153
State income taxes.....	1	5	8	24
State sales taxes.....				
Property taxes.....	296	314	324	298
State corporate taxes.....	14	17	15	19
Miscellaneous.....	71	70	84	81
Total taxes.....	398	506	671	846

AMERICAN BANK NOTE COMPANY

Sales.....			9,478	8,776
Gross profits.....	1,646	3,557	3,565	3,619
Net income.....	(216)	1,441	1,352	1,338
Profit rate.....	(1.34)	8.60	8.03	7.93
Equity ratio.....	28.62	15.09	16.44	12.05
Federal corporate income tax.....	6	133	192	59
Undistributed profits tax.....				
Federal capital stock tax.....	8	10	20	17
Federal excises.....				
Federal-State payroll taxes.....			36	91
State income taxes.....	X	46	52	39
State sales taxes.....	3	3	7	6
Property taxes.....	87	80	80	81
State corporate taxes.....	14	2	4	4
Miscellaneous.....				
Total taxes.....	118	233	391	297

AMERICAN BOX BOARD COMPANY

Sales.....		2,119	2,468	3,088
Gross profits.....		849	907	1,095
Net income.....		360	367	425
Profit rate.....		21.44	19.32	23.84
Equity ratio.....		8.23	7.61	10.08
Federal corporate income tax.....		48	50	64
Undistributed profits tax.....				2
Federal capital stock tax.....		6	4	5
Federal excises.....				
Federal-State payroll taxes.....		X	8	29
State income taxes.....				
State sales taxes.....				
Property taxes.....		16	18	18
State corporate taxes.....		4	4	5
Miscellaneous.....				2
Total taxes.....		75	84	125

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

AMERICAN CAN COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	130,424	150,315	170,328	187,253
Gross profits.....	40,238	39,503	44,235	51,282
Net income.....	23,273	20,188	20,618	22,507
Profit rate.....	13.07	11.21	11.32	15.31
Equity ratio.....	10.54	10.09	9.66	5.88
Federal corporate income tax.....	4,000	2,800	3,300	4,300
Undistributed profits tax.....				
Federal capital stock tax.....	375	274	205	249
Federal excises.....				
Federal-State pay roll taxes.....			288	945
State income taxes.....	233	561	343	386
State sales taxes.....	34	62	72	96
Property taxes.....	1,336	1,404	1,624	1,551
State corporate taxes.....	32	99	89	56
Miscellaneous.....				
Total taxes.....	6,010	5,200	5,921	7,583

AMERICAN CHAIN & CABLE CO.

	1934	1935	1936	1937
Sales.....	14,375	17,922	24,977	28,711
Gross profits.....	5,190	6,591	9,268	9,958
Net income.....	1,010	1,985	3,603	3,655
Profit rate.....	5.12	10.91	20.20	19.27
Equity ratio.....	3.94	5.88	4.39	6.06
Federal corporate income tax.....	80	178	547	488
Undistributed.....			12	52
Federal capital stock tax.....	35	35	60	41
Federal excises.....	21	52	71	52
Federal-State pay roll taxes.....			77	277
State income taxes.....	2	29	149	172
State sales taxes.....	2	2	2	3
Property taxes.....	145	140	143	142
State corporate taxes.....	8	53	97	56
Miscellaneous.....				
Total taxes.....	293	489	1,158	1,283

AMERICAN COLORTYPE COMPANY

	1934	1935	1936	1937
Sales.....	5,543	6,504	7,781	8,857
Gross profits.....	1,692	1,954	2,415	2,808
Net income.....	80	237	438	544
Profit rate.....	1.66	5.14	9.47	11.59
Equity ratio.....	1.60	1.60	1.52	1.52
Federal corporate income tax.....	7	16	43	60
Undistributed profits tax.....			40	47
Federal capital stock tax.....	4	4	8	8
Federal excises.....	X	X	1	1
Federal-State pay roll taxes.....			34	105
State income taxes.....				
State sales taxes.....	X	X	X	
Property taxes.....	40	39	34	46
State corporate taxes.....	2	2	2	3
Miscellaneous.....				
Total taxes.....	53	61	162	270

--- indicate no data available.

X indicates less than \$1,000.

CONCENTRATION OF ECONOMIC POWER

18221

AMERICAN COMMERCIAL ALCOHOL CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....		13,141	15,230	13,779
Gross profits.....		4,773	5,845	5,156
Net income.....		605	1,324	1,839
Profit rate.....		6.54	13.52	16.85
Equity ratio.....		1.98	1.26	1.23
Federal corporate income tax.....		194	221	178
Undistributed profits tax.....				31
Federal capital stock tax.....		24	24	32
Federal corporate income tax.....		194	221	178
Undistributed profits tax.....				31
Federal capital stock tax.....		24	24	32
Federal excises.....		16,867	19,723	20,813
Federal-State payroll taxes.....			18	33
State income taxes.....			24	31
State sales taxes.....		655	349	397
Property taxes.....		48	58	62
State corporate taxes.....			22	3
Miscellaneous.....		30	72	50
Total taxes.....		17,818	20,514	21,630

AMERICAN CRYSTAL SUGAR COMPANY¹

Sales.....	13,115	10,360	15,269	11,997
Gross profits.....	4,622	4,005	6,040	4,927
Net income.....	1,635	1,245	2,282	1,523
Profit rate.....	7.13	5.55	10.61	7.13
Equity ratio.....	4.78	6.59	6.75	3.71
Federal corporate income tax.....	200	180	351	227
Undistributed profits tax.....			49	8
Federal capital stock tax.....	16	17	35	28
Federal excises.....	1,753	234	6	1,515
Federal-State payroll taxes.....		2	24	62
State income taxes.....	17	20	115	48
State sales taxes.....	3	6	16	14
Property taxes.....	179	171	185	224
State corporate taxes.....	7	4	5	5
Miscellaneous.....	1	1	X	X
Total taxes.....	2,176	635	786	2,131

¹ Fiscal year ended Mar. 31.

AMERICAN ENCAUSTIC TILING COMPANY

Sales.....				489
Gross profits.....				1.51
Net income.....				(56)
Profit rate.....				(7.95)
Equity ratio.....				1.29
Federal corporate income tax.....				0
Undistributed profits tax.....				
Federal capital stock tax.....				1
Federal excises.....				
Federal-State payroll taxes.....				8
State income taxes.....				
State sales taxes.....				
Property taxes.....				12
State corporate taxes.....				X
Miscellaneous.....				
Total taxes.....				21

---- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

AMERICAN HIDE AND LEATHER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	5,469	5,950	7,805	5,742
Gross profits.....	462	1,183	1,181	204
Net income.....	(187)	560	358	(597)
Profit rate.....	(1.34)	7.96	5.04	(9.41)
Equity ratio.....	65.71	8.81	7.29	10.84
Federal corporate income tax.....	4	68	49	
Undistributed profits tax.....			5	
Federal capital stock tax.....	5	7	7	6
Federal excises.....			X	
Federal-State payroll taxes.....			41	50
State income taxes.....	9	2	10	5
State sales taxes.....	X	X	X	X
Property taxes.....	33	31	26	31
State corporate taxes.....	18	17	20	21
Miscellaneous.....		15		
Total taxes.....	69	140	158	113

AMERICAN HOME PRODUCTS CORP.

Sales.....	16,091	16,391	21,378	25,711
Gross profits.....	6,363	5,957	7,666	9,297
Net income.....	2,472	2,124	3,579	3,662
Profit rate.....	31.85	28.14	42.79	43.15
Equity ratio.....	4.90	4.99	1.96	1.57
Federal corporate income tax.....	435	392	578	588
Undistributed profits tax.....			77	73
Federal capital stock tax.....	25	35	50	59
Federal excises.....	35	30	111	257
Federal-State payroll taxes.....			29	116
State income taxes.....				
State sales taxes.....				
Property taxes.....	58	49	59	70
State corporate taxes.....				
Miscellaneous.....	183	131	366	531
Total taxes.....	736	637	1,270	1,694

AMERICAN ICE COMPANY

Sales.....	14,226	12,517	13,233	13,223
Gross profits.....	8,470	6,655	6,395	6,581
Net income.....	839	340	425	524
Profit rate.....	2.87	1.47	1.90	2.47
Equity ratio.....	4.04	3.59	4.46	6.15
Federal Corporate income tax.....	128	84	58	25
Undistributed profits tax.....				
Federal capital stock tax.....	13	13	12	12
Federal excises.....	3	2	2	2
Federal-State payroll taxes.....			26	115
State income taxes.....	6	9	15	3
State sales taxes.....	21	5	4	5
Property taxes.....	360	351	332	334
State corporate taxes.....	28	35	25	19
Miscellaneous.....				
Total taxes.....	559	499	474	515

-- indicate no data available.

(X) Indicates less than \$1,000.

() indicate deficit.

AMERICAN LOCOMOTIVE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	14,312	12,068	21,381	50,417
Gross profits.....	1,861	2,611	5,306	13,371
Net income.....	(1,966)	(1,421)	1,302	6,782
Profit rate.....	(3.74)	(2.78)	2.54	12.82
Equity ratio.....	50.11	31.12	14.34	13.20
Federal corporate income tax.....	48		33	446
Undistributed profits tax.....				3
Federal capital stock tax.....	56	50	41	42
Federal excises.....				
Federal-State payroll taxes.....			80	402
State income taxes.....			1	13
State sales taxes.....	6	5	7	6
Property taxes.....	413	389	395	413
State corporate taxes.....	42	73	63	48
Miscellaneous.....	1	X	2	1
Total taxes.....	566	517	622	1,374

AMERICAN MACHINE AND FOUNDRY CO.

Sales.....	3,652	3,532	3,911	4,930
Gross profits.....	1,546	1,452	1,620	1,848
Net income.....	1,179	1,136	1,210	1,053
Profit rate.....	7.29	7.04	7.36	6.42
Equity ratio.....	20.35	70.26	37.28	15.93
Federal corporate income tax.....	14	2	X	4
Undistributed profits tax.....			X	X
Federal capital stock tax.....	X	6	6	7
Federal excises.....	1	X	X	1
Federal-State payroll taxes.....			23	79
State income taxes.....	9	7	12	15
State sales taxes.....	X	2	5	3
Property taxes.....	41	41	39	43
State corporate taxes.....	24	3	3	3
Miscellaneous.....		1	1	1
Total.....	89	62	89	156

THE AMERICAN METAL COMPANY, LIMITED

Sales.....	103,059	78,553	75,868	131,949
Gross profits.....	2,554	3,456	4,233	5,797
Net income.....	561	1,235	2,295	5,048
Profit rate.....	.95	2.30	4.31	9.44
Equity ratio.....	5.08	9.12	6.38	6.21
Federal corporate income tax.....	48	178	415	537
Undistributed profits tax.....			19	10
Federal capital stock tax.....	74	78	50	56
Federal excises.....	2	3	X	2
Federal-State payroll taxes.....			47	190
State income taxes.....	5	X	5	26
State sales taxes.....	X	X	1	18
Property taxes.....	126	152	141	161
State corporate taxes.....	22	16	30	16
Miscellaneous.....		X	1	X
Total taxes.....	277	427	709	1,016

---- Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE AMERICAN ROLLING MILL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	54,485	76,799	101,463	114,858
Gross profits.....	14,525	20,548	26,811	32,838
Net income.....	3,716	7,622	9,859	10,957
Profit rate.....	3.75	6.96	8.99	8.24
Equity ratio.....	1.26	1.12	1.99	9.46
Federal corporate income tax.....	189	514	1,048	1,170
Undistributed profits tax.....			51	64
Federal capital stock tax.....	60	55	115	163
Federal excises.....		3	X	2
Federal-State pay roll taxes.....			286	964
State income taxes.....	14	41	116	108
State sales taxes.....	11	13	10	11
Property taxes.....	546	518	583	600
State corporate taxes.....	42	57	119	160
Miscellaneous.....				
Total taxes.....	862	1,201	2,328	3,242

AMERICAN SEATING COMPANY

	1934	1935	1936	1937
Sales.....	3,871	4,918	7,032	8,419
Gross profits.....	1,422	1,843	2,472	2,781
Net income.....	335	549	759	925
Profit rate.....	5.04	8.46	12.23	14.06
Equity ratio.....	1.25	1.50	1.88	2.04
Federal corporate income tax.....	14	40	78	112
Undistributed profits tax.....				36
Federal capital stock tax.....	3	7	9	11
Federal excises.....				
Federal-State payroll taxes.....			21	81
State income taxes.....	1	1	1	2
State sales taxes.....	12	17	28	31
Property taxes.....	61	46	47	50
State corporate taxes.....	7	8	8	10
Miscellaneous.....	X	1	X	X
Total taxes.....	98	120	192	333

THE AMERICAN SHIP BUILDING CO.¹

	1934	1935	1936	1937
Sales.....	1,597	2,582	4,647	5,194
Gross profits.....	620	890	1,381	1,348
Net income.....	15	208	543	499
Profit rate.....	.22	3.11	8.06	7.40
Equity ratio.....	33.13	23.47	17.39	18.50
Federal corporate income tax.....	6	36	92	68
Undistributed profits tax.....		0	0	0
Federal capital stock tax.....	8	9	9	9
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....		9	44	81
State income taxes.....	2	4	4	7
State sales taxes.....	1	2	10	X
Property taxes.....	102	101	102	107
State corporate taxes.....	7	16	8	7
Miscellaneous.....	X	1	1	1
Total taxes.....	126	178	270	280

¹ Fiscal year ended June 30.

... indicate no data available.

X indicates less than \$1,000.

AMERICAN SNUFF COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	7,809	7,710	7,696	7,701
Gross profits.....	3,540	3,204	3,079	3,095
Net income.....	2,334	1,907	1,928	1,833
Profit rate.....	10.19	8.32	8.20	7.81
Equity ratio.....	24.15	26.38	27.05	27.80
Federal corporate income tax.....	317	261	268	255
Undistributed profits tax.....			X	
Federal capital stock tax.....	21	20	23	24
Federal excises.....	2,114	2,088	1,787	1,806
Federal-State payroll taxes.....			12	34
State income taxes.....	4	4	3	39
State sales taxes.....	X	X	X	
Property taxes.....	36	37	36	37
State corporate taxes.....	5	6	22	26
Miscellaneous.....				
Total taxes.....	2,497	2,416	2,151	2,221

AMERICAN STOVE COMPANY

Sales.....				12,806
Gross profits.....				4,682
Net income.....				1,386
Profit rate.....				12.45
Equity ratio.....				14.25
Federal corporate income tax.....				213
Undistributed profits tax.....				50
Federal capital stock tax.....				12
Federal excises.....				0
Federal-State payroll taxes.....				129
State income taxes.....				
State sales taxes.....				14
Property taxes.....				90
State corporate taxes.....				32
Miscellaneous.....				1
Total taxes.....				541

THE AMERICAN TOBACCO COMPANY, INC.

Sales.....	222,648	220,264	232,985	242,645
Gross profits.....	54,624	51,112	50,318	50,501
Net income.....	26,702	28,309	24,335	31,365
Profit rate.....	9.70	11.15	9.94	12.98
Equity ratio.....	26.69	6.59	6.59	4.11
Federal corporate income tax.....	2,429	3,166	3,341	4,291
Undistributed profits tax.....				
Federal capital stock tax.....	277	337	479	446
Federal excises.....	114,586	110,779	112,102	116,423
Federal-State payroll taxes.....			143	482
State income taxes.....	962	967	915	961
State sales taxes.....	75	29	8	11
Property taxes.....	675	800	775	693
State corporate taxes.....	246	329	328	217
Miscellaneous.....				
Total taxes.....	119,250	116,407	118,091	123,524

indicate no data available.

X indicates less than \$1,000.

AMERICAN TYPE FOUNDERS, INCORPORATED^{1 2}

[\$000's]

	1934	1935	1936	1937
Sales				7,564
Gross profits				3,011
Net income				307
Profit rate				3.38
Equity ratio				5.20
Federal corporate income tax			22	
Undistributed profits tax				
Federal capital stock tax			9	9
Federal excises				
Federal-State payroll taxes			24	64
State income taxes			X	X
State sales taxes			1	4
Property taxes			77	73
State corporate taxes			10	7
Miscellaneous			X	X
Total taxes			143	157

¹ Fiscal year ended Mar. 31.² Formerly American Type Founders Co.

AMERICAN WOOLEN COMPANY, INCORPORATED

	48,711	70,317	71,023	75,062
Sales				
Gross profits	1,711	11,387	10,813	6,547
Net income	(5,329)	3,260	2,441	(1,548)
Profit rate	(8.42)	4.95	3.67	(2.44)
Equity ratio	33.11	12.05	5.25	28.06
Federal corporate income tax	19	456	349	13
Undistributed profits tax			47	24
Federal capital stock tax	64	92	50	67
Federal excises	5	3	2	3
Federal-State payroll taxes			240	752
State income taxes	47	84	345	161
State sales taxes	3	3	6	10
Property taxes	836	804	611	610
State corporate taxes	5	1	6	9
Miscellaneous				
Total taxes	979	1,443	1,656	1,649

AMERICAN ZINC LEAD AND SMELTING COMPANY

	6,430	7,336	9,621	14,122
Sales				
Gross profits	1,232	887	1,293	1,720
Net income	152	(208)	74	253
Profit rate	1.96	(7.77)	.96	3.31
Equity ratio	18.79	14.88	8.18	3.91
Federal corporate income tax	36	7	14	30
Undistributed profits tax			X	25
Federal capital stock tax	14	11	5	8
Federal excises			X	X
Federal-State payroll taxes			19	67
State income taxes	X	X	1	1
State sales taxes	X	X	X	1
Property taxes	44	47	49	54
State corporate taxes	2	1	3	4
Miscellaneous	X			
Total taxes	96	69	91	190

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

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THE ANGOSTURA-WUPPERMAN CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales	878	676	768	604
Gross profits	374	188	569	440
Net income	133	73	112	180
Profit rate	47.92	22.36	31.42	32.19
Equity ratio	4.13	6.04	5.52	9.05
Federal corporate income tax	32	20	21	17
Undistributed profits tax			3	0
Federal capital stock tax	1	1	3	3
Federal excises	3	0	6	0
Federal-State payroll taxes			1	2
State income taxes	1	2	4	4
State sales taxes	1			0
Property taxes	X	X	1	2
State corporate taxes	0	0	0	0
Miscellaneous				
Total taxes	38	23	33	28

ARCHER DANIELS MIDLAND CO.

Sales	57,805	71,016	80,519	67,230
Gross profits	11,149	8,713	7,800	4,793
Net income	3,230	2,574	3,949	1,177
Profit rate	14.64	11.35	16.80	5.18
Equity ratio	6.12	1.88	1.42	2.19
Federal corporate income tax	450	410	601	140
Undistributed profits tax		86	130	257
Federal capital stock tax	37	64	51	39
Federal excises	8	6	7	7
Federal-State payroll taxes			105	179
State income taxes	28	18	156	34
State sales taxes				1
Property taxes	306	290	316	375
State corporate taxes	6	7	8	12
Miscellaneous		16		
Total taxes	835	906	1,374	1,044

ARMSTRONG CORK COMPANY

Sales	22,962	30,236	39,803	42,757
Gross profits	9,299	11,962	17,396	17,990
Net income	2,911	4,467	6,785	6,076
Profit rate	6.34	19.21	16.42	14.42
Equity ratio	2.39	3.03	2.77	16.47
Federal corporate income tax	218	400	836	517
Undistributed profits tax			182	2
Federal capital stock tax	56	72	68	72
Federal excises	X	X	X	X
Federal-State payroll taxes			104	366
State income taxes	19	191	306	136
State sales taxes	4	4	5	8
Property taxes	203	214	220	202
State corporate taxes	24	45	149	108
Miscellaneous	5	9	5	9
Total taxes	529	933	1,875	1,508

— indicate no data available.

X indicates less than \$1,000.

ARNOLD CONSTABLE CORP.¹

[\$000's]

	1934	1935	1936	1937
Sales	6,440	6,834	7,761	7,884
Gross profits	1,632	1,717	1,762	2,022
Net income	202	251	474	297
Profit rate	5.96	6.96	12.95	7.24
Equity ratio	6.87	6.03	5.22	5.53
Federal corporate income tax	21	29	76	40
Undistributed profits tax			5	
Federal capital stock tax	2	3	5	4
Federal excise				
Federal-State payroll taxes			13	36
State income taxes	4	7	9	18
State sales taxes	29	10	13	11
Property taxes	91	91	87	86
State corporate taxes				
Miscellaneous		1		
Total taxes	147	141	208	195

¹ Fiscal year ended Jan. 31.

THE ARO EQUIPMENT CORP.

Sales			1,069	1,280
Gross profits			638	735
Net income			284	331
Profit rate			49.71	49.94
Equity ratio			3.46	4.53
Federal corporate income tax			45	51
Undistributed profits tax			22	17
Federal capital stock tax			3	3
Federal excises				
Federal-State payroll taxes			2	8
State income taxes				
State sales taxes			X	X
Property taxes			2	2
State corporate taxes			X	X
Miscellaneous				
Total taxes			74	81

ARTLOOM CORP.

Sales	1,162	2,134	2,193	2,144
Gross profits	254	466	520	469
Net income	(238)	50	20	(148)
Profit rate	(7.23)	1.57	63	(5.14)
Equity ratio	105.05	15.01	15.57	7.26
Federal corporate income tax		4	2	
Undistributed profits tax				
Federal capital stock tax	4	3	3	3
Federal excises				
Federal-State payroll taxes			7	20
State income taxes		2	3	
State sales taxes				
Property taxes	15	14	14	15
State corporate taxes	2	13	7	10
Miscellaneous				
Total taxes	21	36	36	46

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18229

ASBESTOS MANUFACTURING CO.

[\$'000's]

	1934	1935	1936	1937
Sales.....			1,024	1,087
Gross profits.....	287	403	365	428
Net income.....	90	150	58	36
Profit rate.....	9.16	14.12	5.54	2.87
Equity ratio.....	9.54	7.67	4.98	2.94
Federal corporate income tax.....	10	17	7	4
Undistributed profits tax.....			4	1
Federal capital stock tax.....	3	3	2	2
Federal excises.....	1	3	4	4
Federal-State payroll taxes.....			4	10
State income taxes.....				
State sales taxes.....			X	X
Property taxes.....	8	10	12	11
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	22	33	33	32

ASSOCIATED DRY GOODS CORPORATION

Sales.....	46,347	47,845	54,222	56,999
Gross profits.....	11,408	11,814	13,461	14,052
Net income.....	1,248	1,536	2,130	1,536
Profit rate.....	3.12	3.89	5.51	3.81
Equity ratio.....	4.79	4.74	4.85	4.19
Federal corporate income tax.....	206	195	333	265
Undistributed profits tax.....			1	1
Federal capital stock tax.....	24	39	42	45
Federal excises.....		8	126	343
Federal-State payroll taxes.....				
State income taxes.....	34	55	91	93
State sales taxes.....	140	46	26	21
Property taxes.....	868	845	831	890
State corporate taxes.....	12	6	20	18
Miscellaneous.....	4			14
Total taxes.....	1,288	1,194	1,470	1,690

ATLANTIC REFINING CO.

Sales.....	96,118	101,535	113,128	131,217
Gross profits.....	38,569	38,460	41,601	46,461
Net income.....	7,100	5,291	9,260	11,420
Profit rate.....	4.81	3.62	6.31	7.43
Equity ratio.....	5.91	5.96	13.39	6.45
Federal corporate income tax.....	862	522	815	902
Undistributed profits tax.....			3	3
Federal capital stock tax.....	204	225	176	196
Federal excises.....	367	332	377	383
Federal-State payroll taxes.....			185	602
State income taxes.....		26	102	104
State sales taxes.....	729	781	1,066	129
Property taxes.....	1,094	1,077	1,104	1,576
State corporate taxes.....	282	557	622	785
Miscellaneous.....	167	137	154	165
Total taxes.....	3,695	3,657	4,604	4,845

..... indicate no data available.

X indicates less than \$1,000.

ATLAS IMPERIAL DIESEL ENGINE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		1,301	1,464	2,417
Gross profits.....		446	495	735
Net income.....		86	55	231
Profit rate.....		4.01	2.53	9.98
Equity ratio.....		1.70	1.68	1.66
Federal corporate income tax.....		6	6	26
Undistributed profits tax.....				X
Federal capital stock tax.....		1	5	4
Federal excises.....				
Federal-State payroll taxes.....			5	20
State income taxes.....		1	X	6
State sales taxes.....		1	1	1
Property taxes.....		15	24	26
State corporate taxes.....		X	X	X
Miscellaneous.....		X	X	X
Total taxes.....		24	41	83

ATLAS POWDER CO.

Sales.....	12,559	13,087	15,895	17,386
Gross profits.....	4,064	4,056	4,845	5,561
Net income.....	1,291	1,335	1,672	1,650
Profit rate.....	6.07	6.72	8.40	8.23
Equity ratio.....	29.03	24.04	15.59	19.00
Federal corporate income tax.....	166	173	232	213
Undistributed profits tax.....			10	2
Federal capital stock tax.....	21	21	22	23
Federal excises.....			4	
Federal-State payroll taxes.....			39	124
State income taxes.....	4	23	53	36
State sales taxes.....	14	15	4	2
Property taxes.....	69	78	79	83
State corporate taxes.....	7	36	42	37
Miscellaneous.....				
Total taxes.....	281	346	485	520

AUSTIN NICHOLS & CO. INC.

Sales.....	15,924	17,349	19,984	18,886
Gross profits.....	2,131	2,191	2,485	2,331
Net income.....	46	136	268	(43)
Profit rate.....	2.20	6.39	11.74	(2.01)
Equity ratio.....	1.08	1.04	.90	.88
Federal corporate income tax.....	5	15	44	1
Undistributed profits tax.....				
Federal capital stock tax.....	3	3	3	3
Federal excises.....				
Federal-State payroll taxes.....		24	58	56
State income taxes.....		5	11	
State sales taxes.....	8	9	10	11
Property taxes.....	28	27	27	29
State corporate taxes.....	5	2	2	3
Miscellaneous.....				
Total taxes.....	49	85	155	103

... indicate no data available.

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() indicate deficit.

AUTO CITY BREWING CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	500	519	680	466
Gross profits.....	253	257	416	236
Net income.....	136	80	140	(39)
Profit rate.....	25.04	13.22	22.49	(6.76)
Equity ratio.....	3.83	4.01	3.68	3.05
Federal corporate income tax.....	20	12	21	0
Undistributed profits tax.....				0
Federal capital stock tax.....	2	2	2	2
Federal excises.....	345	323	376	250
Federal-State payroll taxes.....			2	5
State income taxes.....	0	0	0	0
State sales taxes.....	3	2	5	2
Property taxes.....	4	7	10	10
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	375	347	417	270

AUTOMATIC PRODUCTS CORPORATION

Sales.....	1,439	1,696	3,013	84
Gross profits.....	813	1,003	1,527	(5)
Net income.....	109	144	152	(33)
Profit rate.....	5.52	6.12	4.92	(1.74)
Equity ratio.....	3.45	3.65	2.25	1.81
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	X	X
Federal excises.....				
Federal-State payroll taxes.....				X
State income taxes.....				
State sales taxes.....				
Property taxes.....		1	2	3
State corporate taxes.....	X	2	2	2
Miscellaneous.....				
Total taxes.....		3	4	5

THE AXTON-FISHER TOBACCO COMPANY

Sales.....	28,532	20,543	17,231	19,255
Gross profits.....	4,902	3,246	2,921	2,937
Net income.....	1,706	596	621	241
Profit rate.....	22.86	8.00	8.29	3.32
Equity ratio.....	2.79	2.35	1.92	2.16
Federal corporate income tax.....	236	83	74	X
Undistributed profits tax.....	X	X		
Federal capital stock tax.....	14	21	15	15
Federal excises.....	18,682	13,238	10,771	12,537
Federal-State payroll taxes.....	X	X		28
State income taxes.....			13	X
State sales taxes.....				
Property taxes.....	43	46	40	41
State corporate taxes.....				5
Miscellaneous.....	2			2
Total taxes.....	18,977	13,388	10,913	12,628

... indicate no data available.

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() indicate deficit.

BALDWIN LOCOMOTIVE WORKS, THE

[\$000's]

	1934	1935	1936	1937
Sales.....				36,586
Gross profits.....				11,514
Net income.....				2,272
Profit rate.....				4.27
Equity ratio.....				2.05
Federal corporate income tax.....				513
Undistributed profits tax.....				55
Federal capital stock tax.....				47
Federal excises.....				
Federal-State payroll taxes.....				466
State income taxes.....				148
State sales taxes.....				
Property taxes.....				332
State corporate taxes.....				230
Miscellaneous.....				1
Total taxes.....				1,792

BALDWIN RUBBER COMPANY ¹

Sales.....	2,644	3,731	3,440	3,180
Gross profits.....	362	1,045	1,164	907
Net income.....	125	606	713	549
Profit rate.....	23.57	64.89	59.02	
Equity ratio.....	2.09	2.33	2.41	1.93
Federal corporate income tax.....	14	101	111	81
Undistributed profits tax.....			54	X
Federal capital stock tax.....	2	2	7	4
Federal excises.....	4	5	4	3
Federal-State payroll taxes.....			10	26
State income taxes.....				
State sales taxes.....			X	X
Property taxes.....	8	5	6	6
State corporate taxes.....	X 1	X 1	2	2
Miscellaneous.....	X	X		
Total taxes.....	29	114	194	122

¹ Figures for 1937 are for nine months ended Sept. 30.

W. H. BARBER COMPANY

Sales.....		9,747	11,589	12,596
Gross profits.....		993	1,049	979
Net income.....		380	378	332
Profit rate.....		15.47	14.31	12.27
Equity ratio.....		4.79	3.82	5.83
Federal corporate income tax.....		56	55	47
Undistributed profits tax.....			2	1
Federal capital stock tax.....		4	5	5
Federal excises.....		1	1	1
Federal-State payroll taxes.....			4	12
State income taxes.....		10	8	9
State sales taxes.....				
Property taxes.....		15	18	18
State corporate taxes.....		1	3	2
Miscellaneous.....				
Total taxes.....		87	96	95

--- indicate no data available.

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CONCENTRATION OF ECONOMIC POWER

18233

BARDSTOWN DISTILLERY, INC.

[\$000's]

	1934	1935	1936	1937
Sales.....			925	675
Gross profits.....			476	392
Net income.....			271	95
Profit rate.....			46.12	10.30
Equity ratio.....			1.12	1.37
Federal corporate income tax.....			38	13
Undistributed profits tax.....				10
Federal capital stock tax.....			3	2
Federal excises.....			42	152
Federal-State payroll taxes.....			1	1
State income taxes.....			7	3
State sales taxes.....				
Property taxes.....			X	
State corporate taxes.....			2	2
Miscellaneous.....			58	41
Total taxes.....			151	224

BARIUM STAINLESS STEEL CORP.

Sales.....				207
Gross profits.....				(78)
Net income.....				(195)
Profit rate.....				(26.08)
Equity ratio.....				2.40
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				5
State income taxes.....				
State sales taxes.....				
Property taxes.....				2
State corporate taxes.....				5
Miscellaneous.....				
Total taxes.....				12

BARKER BROS. CORP.

Sales.....	7,997	9,680	12,577	14,314
Gross profits.....	2,897	3,745	5,097	5,726
Net income.....	(367)	322	817	592
Profit rate.....	(5.64)	4.76	11.45	8.13
Equity ratio.....	7.60	5.45	3.16	2.27
Federal corporate income tax.....		10	118	88
Undistributed profits tax.....			42	29
Federal capital stock tax.....	8	5	11	10
Federal excises.....	3	1		
Federal-State payroll taxes.....			30	102
State income taxes.....			2	29
State sales taxes.....		8	1	1
Property taxes.....	114	108	118	144
State corporate taxes.....	1	1	1	1
Miscellaneous.....	3	5	5	7
Total taxes.....	129	138	328	411

. indicate no data available.

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() indicate deficit.

BATH IRON WORKS CORPORATION

[\$'000's]

	1934	1935	1936	1937
Sales.....			6,746	8,293
Gross profits.....			560	321
Net income.....			276	38
Profit rate.....			10.84	1.60
Equity ratio.....			1.51	1.46
Federal corporate income tax.....			48	2
Undistributed profits tax.....				
Federal capital stock tax.....			10	9
Federal excises.....				
Federal-State payroll taxes.....			17	76
State income taxes.....				
State sales taxes.....				
Property taxes.....			17	27
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			92	114

BEATRICE CREAMERY COMPANY

Sales.....	54,883	57,117	59,667	64,224
Gross profits.....	11,250	10,836	12,632	13,029
Net income.....	1,406	991	1,955	1,647
Profit rate.....	6.17	4.47	9.04	7.57
Equity ratio.....	22.20	26.90	18.14	19.43
Federal corporate income tax.....	176	135	286	202
Undistributed profits tax.....			85	X
Federal capital stock tax.....	27	28	34	33
Federal excises.....				
Federal-State payroll taxes.....			96	247
State income taxes.....				
State sales taxes.....				
Property taxes.....	345	334	351	400
State corporate taxes.....				
Miscellaneous.....		13		
Total taxes.....	548	510	852	882

BEAUNIT MILLS INCORPORATED

Sales.....				6,038
Gross profits.....				772
Net income.....				157
Profit rate.....				7.26
Equity ratio.....				3.92
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				4
Federal excises.....				
Federal-State payroll taxes.....				32
State income taxes.....				13
State sales taxes.....				X
Property taxes.....				5
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				54

.... indicate no data available.

X indicates less than \$1,000.

BEECH AIRCRAFT CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....				788
Gross profits.....				135
Net income.....				19
Profit rate.....				3.02
Equity ratio.....				1.64
Federal corporate income tax.....				2
Undistributed profits tax.....				3
Federal capital stock tax.....				1
Federal excises.....				
Federal-State payroll taxes.....				9
State income taxes.....				
State sales taxes.....				
Property taxes.....				2
State corporate taxes.....			X	
Miscellaneous.....				
Total taxes.....				17

BELL AIRCRAFT CORPORATION

Sales.....			336	1,708
Gross profits.....			113	271
Net income.....			18	66
Profit rate.....			2.04	7.21
Equity ratio.....			6.09	8.04
Federal corporate income tax.....			2	10
Undistributed profits tax.....			3	13
Federal capital stock tax.....			2	3
Federal excises.....				
Federal-State payroll taxes.....			5	36
State income taxes.....			2	2
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....			1	
Total taxes.....			15	64

BELLANCA AIRCRAFT CORPORATION

	538	332	218	1,592
Sales.....	538	332	218	1,592
Gross profits.....	40	1	34	317
Net income.....	(139)	(194)	(60)	151
Profit rate.....	(18.63)	(33.66)	(11.65)	23.75
Equity ratio.....	14.14	4.01	5.18	2.62
Federal corporate income tax.....				27
Undistributed profits tax.....				1
Federal capital stock tax.....	X	X	X	X
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			1	10
State income taxes.....				
State sales taxes.....		X	X	X
Property taxes.....	1	1	1	1
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X	X	X
Total taxes.....	1	1	2	39

.... indicate no data available.

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() indicate deficit.

BENDIX AVIATION CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			34,590	40,595
Gross profits.....	8,966	11,558	12,520	12,415
Net income.....		3,781	3,764	2,950
Profit rate.....	8.97	13.62	13.67	10.66
Equity ratio.....	11.79	9.09	7.35	6.88
Federal corporate income tax.....	337	600	662	561
Undistributed profits tax.....			59	114
Federal capital stock tax.....	29	43	84	88
Federal excises.....	1	X	3	13
Federal-State payroll taxes.....			120	474
State income taxes.....	55	60	86	60
State sales taxes.....	3	4	6	11
Property taxes.....	112	130	121	138
State corporate taxes.....	3	3	1	10
Miscellaneous.....	8	9	8	4
Total taxes.....	548	849	1,150	1,473

BERGHOFF BREWING CORP.

Sales.....	2,359	2,696	4,110	4,427
Gross profits.....	1,657	1,933	2,962	2,969
Net income.....	(101)	313	628	372
Profit rate.....	(9.25)	23.60	40.73	20.22
Equity ratio.....	2.51	4.46	4.29	6.88
Federal corporate income tax.....		46	92	60
Undistributed profits tax.....			25	5
Federal capital stock tax.....	8	6	8	8
Federal excises.....	933	1,008	1,458	1,602
Federal-State payroll taxes.....			6	19
State income taxes.....				
State sales taxes.....	102	79	123	126
Property taxes.....	19	19	17	16
State corporate taxes.....	5	3	4	5
Miscellaneous.....				
Total taxes.....	1,067	1,161	1,733	1,841

BERKEY AND GAY FURNITURE CO.

Sales.....				1,059
Gross profits.....				299
Net income.....				(17)
Profit rate.....				(1.28)
Equity ratio.....				5.79
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				2
Federal excises.....				
Federal-State payroll taxes.....				23
State income taxes.....				
State sales taxes.....				
Property taxes.....				14
State corporate taxes.....				1
Miscellaneous.....				
Total taxes.....				40

---- Indicate no data available.

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() indicate deficit.

BIRD AND SON, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....			14,398	14,623
Gross profits.....			4,300	4,426
Net income.....			1,171	872
Profit rate.....			9.88	7.26
Equity ratio.....			13.35	16.19
Federal corporate income tax.....			178	91
Undistributed profits tax.....			18	2
Federal capital stock tax.....			16	17
Federal excises.....			X	1
Federal-State payroll taxes.....			39	133
State income taxes.....				
State sales taxes.....			3	5
Property taxes.....			107	118
State corporate taxes.....			71	49
Miscellaneous.....				
Total taxes.....			432	416

BIRDSBORO STEEL FDY. & MACHINE CO.

Sales.....			3,285	4,589
Gross profits.....			1,092	1,354
Net income.....			307	525
Profit rate.....			17.71	23.28
Equity ratio.....			3.05	7.28
Federal corporate income tax.....			42	77
Undistributed profits tax.....				17
Federal capital stock tax.....			4	6
Federal excises.....				
Federal-State payroll taxes.....			13	49
State income taxes.....			24	27
State sales taxes.....				
Property taxes.....			25	25
State corporate taxes.....			X	X
Miscellaneous.....			7	9
Total taxes.....			115	210

BLACK AND DECKER MFG. CO.

Sales.....		3,631	4,892	6,154
Gross profits.....		1,746	2,535	3,190
Net income.....		616	1,092	1,366
Profit rate.....		15.79	24.11	26.58
Equity ratio.....		14.68	10.88	9.69
Federal corporate income tax.....		75	97	142
Undistributed profits tax.....			0	21
Federal capital stock tax.....		8	25	12
Federal excises.....		0	0	0
Federal-State payroll taxes.....			9	53
State income taxes.....		X	1	4
State sales taxes.....		1	1	2
Property taxes.....		26	33	33
State corporate taxes.....		4	4	4
Miscellaneous.....				
Total taxes.....		114	170	271

--- Indicate no data available.

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BLAUNERS

[\$000's]

	1934	1935	1936	1937
Sales.....	9,145	9,227	10,621	11,426
Gross profits.....	1,891	1,733	2,245	2,550
Net income.....	358	265	418	221
Profit rate.....	17.95	13.01	19.17	10.37
Equity ratio.....	3.98	3.47	2.89	4.24
Federal corporate income tax.....	52	31	89	30
Undistributed profits tax.....	4	6	8	9
Federal capital stock tax.....				
Federal excises.....		X	11	38
Federal-State payroll taxes.....	1	9	32	9
State income taxes.....				
State sales taxes.....	6	5	6	6
Property taxes.....	7	9	7	8
State corporate taxes.....	1	X	X	X
Miscellaneous.....				
Total taxes.....	71	60	153	100

BLAW-KNOX COMPANY

Sales.....	6,844	7,533	11,512	17,161
Gross profits.....	1,803	2,349	4,232	6,178
Net income.....	107	665	1,852	2,979
Profit rate.....	0.57	3.55	10.86	16.44
Equity ratio.....	60.24	79.73	14.38	8.55
Federal corporate income tax.....	41	80	204	395
Undistributed profits tax.....				45
Federal capital stock tax.....	17	18	45	49
Federal excises.....				
Federal-State payroll taxes.....			44	167
State income taxes.....	1	7	99	149
State sales taxes.....				
Property taxes.....	92	88	55	87
State corporate taxes.....	11	65	101	97
Miscellaneous.....				
Total taxes.....	162	258	548	989

BOEING AIRPLANE CO.

Sales.....		1,237	2,293	5,545
Gross profits.....		111	767	1,140
Net income.....		(334)	240	382
Profit rate.....		(10.41)	7.09	5.29
Equity ratio.....		11.04	4.59	6.81
Federal corporate income tax.....			39	65
Undistributed profits tax.....			31	2
Federal capital stock tax.....			15	17
Federal excises.....		1	4	1
Federal-State payroll taxes.....			24	90
State income taxes.....			X	3
State sales taxes.....		3	4	18
Property taxes.....		32	24	37
State corporate taxes.....	X		1	2
Miscellaneous.....		3	3	3
Total taxes.....		50	145	238

---- indicate no data available.

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() indicate deficit.

BOHN ALUMINUM & BRASS CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....			17,995	20,224
Gross profits.....	3,103	3,114	3,197	3,711
Net income.....	1,812	1,855	1,863	2,115
Profit rate.....	24.03	24.27	22.80	24.76
Equity ratio.....	5.43	3.87	4.47	8.44
Federal corporate income tax.....	216	242	259	306
Undistributed profits tax.....			9	34
Federal capital stock tax.....	18	23	16	21
Federal excises.....	3	X		
Federal-State payroll taxes.....			44	152
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	113	118	119	125
State corporate taxes.....	14	15	18	18
Miscellaneous.....				
Total taxes.....	364	398	465	656

BOND STORES, INC.

Sales.....			17,592	20,153
Gross profits.....				8,491
Net income.....				2,031
Profit rate.....				26.23
Equity ratio.....				2.09
Federal corporate income tax.....				319
Undistributed profits tax.....				126
Federal capital stock tax.....				75
Federal excises.....				
Federal-State payroll taxes.....				193
State income taxes.....				
State sales taxes.....				3
Property taxes.....				87
State corporate taxes.....				56
Miscellaneous.....				
Total taxes.....				859

THE BORDEN COMPANY

Sales.....	215,724	229,888	238,845	237,562
Gross profits.....	32,603	32,715	43,135	41,546
Net income.....	5,569	6,049	9,858	7,573
Profit rate.....	4.15	6.66	9.77	7.58
Equity ratio.....	8.87	8.08	7.08	7.13
Federal corporate income tax.....	704	945	1,524	959
Undistributed profits tax.....				
Federal capital stock tax.....	124	160	143	160
Federal excises.....				
Federal-State payroll taxes.....			490	1,510
State income taxes.....	168	181	246	275
State sales taxes.....	318	312	428	397
Property taxes.....	1,357	1,324	1,308	1,339
State corporate taxes.....				
Miscellaneous.....	448	499	510	527
Total taxes.....	3,119	3,421	4,649	5,167

..... indicate no data available.

X indicates less than \$1,000.

BORG WARNER CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			78, 172	90, 032
Gross profits.....	13, 305	18, 997	24, 500	26, 398
Net income.....	4, 730	8, 400	10, 797	10, 805
Profit rate.....	15. 40	25. 43	31. 16	29. 20
Equity ratio.....	5. 10	5. 21	3. 06	4. 59
Federal corporate income tax.....	690	1, 424	1, 914	1, 934
Undistributed profits tax.....			29	22
Federal capital stock tax.....	107	67	150	139
Federal excises.....	583	745	895	949
Federal-State pay-roll taxes.....			197	716
State income taxes.....	11	10	17	16
State sales taxes.....	5	6	10	15
Property taxes.....	248	267	267	331
State corporate taxes.....	30	19	9	12
Miscellaneous.....	3	1	X	X
Total taxes.....	1, 677	2, 539	3, 488	4, 134

BOSTON HERALD TRAVELER CORP.

Sales.....		6, 298	7, 041	7, 118
Gross profits.....		2, 042	2, 442	2, 493
Net income.....		718	1, 090	1, 041
Profit rate.....		14. 30	21. 56	20. 59
Equity ratio.....		7. 39	6. 92	5. 4
Federal corporate income tax.....		103	182	134
Undistributed profits tax.....				2
Federal capital stock tax.....		7	12	12
Federal excises.....				
Federal-State payroll taxes.....			22	74
State income taxes.....		33	46	46
State sales taxes.....				
Property taxes.....		56	56	46
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		199	318	344

BOWER ROLLER BEARING COMPANY

Sales.....			6, 668	7, 489
Gross profits.....			1, 975	2, 222
Net income.....			1, 337	1, 535
Profit rate.....			36. 97	38. 99
Equity ratio.....			4. 05	5. 63
Federal corporate income tax.....			215	257
Undistributed profits tax.....			50	58
Federal capital stock tax.....			13	13
Federal excises.....				
Federal-State payroll taxes.....			21	73
State income taxes.....				
State sales taxes.....				
Property taxes.....			36	48
State corporate taxes.....			7	8
Miscellaneous.....				
Total taxes.....			342	457

---- indicate no data available.
X indicates less than \$1,000.

BOYD-WELSH, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....		1,030	1,046	1,283
Gross profits.....		201	206	1.89
Net income.....		54	42	0
Profit rate.....		15.26	11.69	.06
Equity ratio.....		.43	.51	.44
Federal corporate income tax.....			2	
Undistributed profits tax.....				
Federal capital stock tax.....		X	X	X
Federal excises.....		X		
Federal-State payroll taxes.....			4	15
State income taxes.....			X	
State sales taxes.....				
Property taxes.....		2	2	2
State corporate taxes.....		X	X	X
Miscellaneous.....		1	2	2
Total taxes.....		3	10	19

BRIDGEPORT BRASS COMPANY

Sales.....	9,695	13,538	17,400	21,048
Gross profits.....	2,384	3,081	3,830	3,564
Net income.....	850	988	1,522	1,084
Profit rate.....	17.31	18.16	22.57	11.57
Equity ratio.....	3.17	4.38	6.43	19.12
Federal corporate income tax.....	91	112	218	135
Undistributed profits tax.....			58	13
Federal capital stock tax.....	6	9	13	16
Federal excises.....	12	1	1	3
Federal-State payroll taxes.....			44	152
State income taxes.....	12	15	30	18
State sales taxes.....				
Property taxes.....	90	100	103	120
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	212	238	468	458

THE BRIDGEPORT MACHINE CO.

Sales.....	1,900	2,538	4,281	6,717
Gross profits.....	511	521	808	1,205
Net income.....	256	177	436	644
Profit rate.....	17.64	11.88	14.28	15.93
Equity ratio.....	2.16	1.92	2.83	1.62
Federal corporate income tax.....	7	16	52	79
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	3	6
Federal excises.....				
Federal-State payroll taxes.....			4	17
State income taxes.....	1	2	7	8
State sales taxes.....				
Property taxes.....	9	11	11	28
State corporate taxes.....	2	2	2	3
Miscellaneous.....	1	1	2	6
Total taxes.....	21	33	81	147

..... indicate no data available.
X indicates less than \$1,000.

BRIGGS & STRATTON CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	3,198	4,864	5,168	5,972
Gross profits.....	1,256	2,031	2,093	2,545
Net income.....	688	1,285	1,202	1,599
Profit rate.....	23.75	41.69	38.00	47.06
Equity ratio.....	7.30	5.73	5.67	6.42
Federal corporate income tax.....	97	156	165	221
Undistributed profits tax.....			3	21
Federal capital stock tax.....	7	7	16	16
Federal excises.....				
Federal-State payroll taxes.....			29	63
State income taxes.....	51	60	58	82
State sales taxes.....				
Property taxes.....	29	31	47	52
State corporate taxes.....	4	2	2	2
Miscellaneous.....	8	28		
Total taxes.....	196	284	320	457

BRIGGS MANUFACTURING COMPANY

Sales.....			151,020	158,940
Gross profits.....	12,954	18,883	22,646	22,383
Net income.....	6,083	11,038	12,711	11,430
Profit rate.....	23.55	37.26	39.40	33.73
Equity ratio.....	3.57	3.27	2.88	5.98
Federal corporate income tax.....	961	1,772	1,930	1,809
Undistributed profits tax.....			370	230
Federal capital stock tax.....	49	123	182	161
Federal excises.....	8	9	11	11
Federal-State payroll taxes.....			363	1,291
State income taxes.....				
State sales taxes.....	25	3	26	46
Property taxes.....	457	537	545	630
State corporate taxes.....	38	42	51	50
Miscellaneous.....				
Total taxes.....	1,538	2,486	3,478	4,228

BRISTOL-MYERS COMPANY (DELAWARE)

Sales.....	9,754	12,045	14,719	15,974
Gross profits.....	4,103	4,996	5,643	5,767
Net income.....	2,459	2,871	3,062	2,963
Profit rate.....	41.47	47.44	46.76	43.00
Equity ratio.....	8.46	6.62	5.94	7.26
Federal corporate income tax.....	255	365	426	371
Undistributed profits tax.....			55	38
Federal capital stock tax.....	57	42	31	36
Federal excises.....	329	439	506	521
Federal-State payroll taxes.....				
State income taxes.....	3	6	6	10
State sales taxes.....		X	X	X
Property taxes.....	17	46	42	44
State corporate taxes.....	1	1	2	1
Miscellaneous.....				
Total taxes.....	665	899	1,068	1,021

.... Indicate no data available.

X indicates less than \$1,000.

CONCENTRATION OF ECONOMIC POWER

18243

BROADWAY DEPARTMENT STORE INC.¹

[\$000's]

	1934	1935	1936	1937
Sales.....		15, 073	16, 377	17, 062
Gross profits.....		5, 382	5, 896	6, 194
Net income.....		367	585	666
Profit rate.....		5. 09	8. 22	9. 24
Equity ratio.....		1. 81	1. 80	4. 98
Federal corporate income tax.....		38	70	87
Undistributed profits tax.....		X	X	1
Federal capital stock tax.....		7	7	6
Federal excises.....				
Federal-State payroll taxes.....		X	23	78
State income taxes.....		X	12	23
State sales taxes.....		392	483	502
Property taxes.....		121	123	143
State corporate taxes.....		7	4	4
Miscellaneous.....				5
Total taxes.....		565	722	849

¹ Fiscal year ended Oct. 31.

BROCK AND CO.

Sales.....	480	545	769	660
Gross profits.....	176	206	299	264
Net income.....	(74)	(51)	8	X
Profit rate.....	(3. 36)	(2. 37)	. 39	X
Equity ratio.....	81. 33	91. 45	62. 63	15. 06
Federal corporate income tax.....			5	
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....			2	6
State income taxes.....			1	
State sales taxes.....	8	11	16	19
Property taxes.....	20	26	28	35
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	28	37	52	60

THE BROWN FENCE & WIRE COMPANY

Sales.....	3, 429	3, 575	4, 120	3, 831
Gross profits.....		1, 165	1, 119	1, 297
Net income.....	466	396	624	346
Profit rate.....	18. 69	16. 76	26. 16	14. 67
Equity ratio.....	6. 79	15. 45	8. 03	12. 83
Federal corporate income tax.....	66	54	89	47
Undistributed profits tax.....				
Federal capital stock tax.....	4	7	7	6
Federal excises.....				
Federal-State payroll taxes.....			9	16
State income taxes.....				
State sales taxes.....	9	9	12	12
Property taxes.....	22	27	22	25
State corporate taxes.....	3	3	3	3
Miscellaneous.....	1	3	X	1
Total taxes.....	105	103	142	110

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

BROWN FORMAN DISTILLERY CO.

[\$000's].

	1934	1935	1936	1937
Sales.....	3,887	7,664	8,618	6,485
Gross profits.....	2,113	2,206	6,572	5,014
Net income.....	48	646	497	136
Profit rate.....	2.04	24.00	15.16	4.28
Equity ratio.....	2.17	.95	1.03	1.16
Federal corporate income tax.....	32	137	100	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	3	10	11	5
Federal excises.....	1,087	3,205	3,753	2,787
Federal-State payroll taxes.....			9	24
State income taxes.....	0	5	12	0
State sales taxes.....	10	191	209	58
Property taxes.....	18	40	51	52
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	1,150	3,588	4,145	2,926

BROWN McLAREN MFG. CO.

Sales.....				1,170
Gross profits.....				1.93
Net income.....				51
Profit rate.....				9.37
Equity ratio.....				10.95
Federal corporate income tax.....				4
Undistributed profits tax.....				
Federal capital stock tax.....				X
Federal excises.....				
Federal-State payroll taxes.....				18
State income taxes.....				
State sales taxes.....				
Property taxes.....				11
State corporate taxes.....				1
Miscellaneous.....				
Total taxes.....				34

BROWN RUBBER CO., INC.

Sales.....				1,277
Gross profits.....				318
Net income.....				151
Profit rate.....				41.71
Equity ratio.....				4.93
Federal corporate income tax.....				22
Undistributed profits tax.....				3
Federal capital stock tax.....				2
Federal excises.....				X
Federal-State payroll taxes.....				10
State income taxes.....				
State sales taxes.....				X
Property taxes.....				1
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				38

.... Indicate no data available.

X indicates less than \$1,000.

BROWN SHOE COMPANY, INC.

[\$000's]

	1934	1935	1936	1937
Sales.....		24,904	24,011	29,397
Gross profits.....		5,522	5,549	6,287
Net income.....		1,226	820	1,111
Profit rate.....		7.76	5.25	7.12
Equity ratio.....		2.53	2.56	2.40
Federal corporate income tax.....		100	67	159
Undistributed profits tax.....				
Federal capital stock tax.....		16	16	18
Federal excises.....				
Federal-State payroll taxes.....			63	245
State income taxes.....			3	7
State sales taxes.....		10	29	24
Property taxes.....		57	58	57
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		183	236	510

E. L. BRUCE COMPANY

Sales.....		5,527	7,940	6,364
Gross profits.....		1,405	2,044	1,641
Net income.....		316	564	235
Profit rate.....		8.19	13.80	5.76
Equity ratio.....		3.09	2.93	3.56
Federal corporate income tax.....		16	74	29
Undistributed profits tax.....				
Federal capital stock tax.....		5	5	5
Federal excises.....				
Federal-State payroll taxes.....			38	58
State income taxes.....			9	1
State sales taxes.....				
Property taxes.....		57	64	84
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		78	190	177

THE BRUNSWICK-BALKE-COLLENDER CO.

Sales.....	5,391	6,059	8,793	11,553
Gross profits.....	1,812	2,207	3,752	5,207
Net income.....	245	175	912	1,034
Profit rate.....	2.64	1.59	7.84	8.70
Equity ratio.....	37.62	29.41	14.05	9.50
Federal corporate income tax.....		7	20	105
Undistributed profits tax.....				
Federal capital stock tax.....	10	9	15	17
Federal excises.....	42	83	121	334
Federal-State payroll taxes.....			25	111
State income taxes.....				
State sales taxes.....	14	24	44	71
Property taxes.....	43	34	34	35
State corporate taxes.....	6	6	7	11
Miscellaneous.....	36	32	27	57
Total taxes.....	151	195	293	741

--- indicate no data available.

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BUCYRUS ERIE CO.

[\$000's]

	1934	1935	1936	1937
Sales	4,900	6,602	10,578	13,585
Gross profits	1,389	2,164	4,185	5,313
Net income	(251)	216	1,729	2,333
Profit rate	(1.09)	.94	7.32	9.66
Equity ratio	48.60	32.58	13.54	13.85
Federal corporate income tax		23	255	288
Undistributed profits tax			26	72
Federal capital stock tax	20	20	25	25
Federal excises				
Federal-State payroll taxes			55	144
State income taxes	X	2	65	54
State sales taxes	1	3	7	4
Property taxes	101	98	97	113
State corporate taxes	2	13	13	13
Miscellaneous		45		
Total taxes	124	204	543	713

BUCYRUS MONIGHAN CO.

Sales	631		1,068	1,617
Gross profits	187	378	369	498
Net income	76	237	182	275
Profit rate	6.11	18.83	14.36	22.64
Equity ratio	8.32	8.64	10.55	7.31
Federal corporate income tax	8	34	28	46
Undistributed profits tax			1	9
Federal capital stock tax	2	3	3	3
Federal excises	X	X	0	0
Federal-State payroll taxes			3	9
State income taxes	0	0	0	0
State sales taxes	X	X	X	1
Property taxes	8	5	7	7
State corporate taxes	1	1	1	1
Miscellaneous	X	X	X	X
Total taxes	19	43	43	76

EDWARD G. BUDD MANUFACTURING COMPANY

Sales	19,651	23,682	30,603	38,994
Gross profits	3,023	4,396	5,040	7,045
Net income	(1,081)	1,226	1,458	1,785
Profit rate	(7.98)	6.44	6.41	7.66
Equity ratio	1.23	1.49	2.61	2.72
Federal corporate income tax		81	60	220
Undistributed profits tax				
Federal capital stock tax	11	11	26	26
Federal excises	7	2	2	3
Federal-State payroll taxes			107	400
State income taxes		25	44	52
State sales taxes		X	X	X
Property taxes	123	119	116	110
State corporate taxes	9	28	72	42
Miscellaneous				1
Total taxes	150	266	427	854

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

BUDD WHEEL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	10,743	14,575	14,349	16,708
Gross profits.....	2,018	3,063	3,061	3,421
Net income.....	168	922	954	875
Profit rate.....	3.52	17.23	16.99	14.77
Equity ratio.....	3.84	4.89	3.91	5.18
Federal corporate income tax.....	14	122	153	165
Undistributed profits tax.....			5	90
Federal capital stock tax.....	6	6	19	16
Federal excises.....			32	122
Federal-State payroll taxes.....		1		
State income taxes.....				
State sales taxes.....				
Property taxes.....	43	48	56	65
State corporate taxes.....	25	10	36	18
Miscellaneous.....				
Total taxes.....	88	187	301	476

THE BULLARD COMPANY

	1,411	2,464	4,237	5,132
Sales.....	1,411	2,464	4,237	5,132
Gross profits.....	571	1,049	1,835	2,391
Net income.....	111	339	859	1,114
Profit rate.....	6.03	15.84	36.53	39.35
Equity ratio.....	33.09	3.82	5.96	6.08
Federal corporate income tax.....		40	136	184
Undistributed profits tax.....			30	50
Federal capital stock tax.....	3	3	9	8
Federal excises.....	X			
Federal-State payroll taxes.....			20	76
State income taxes.....	X	6	17	22
State sales taxes.....				
Property taxes.....	26	23	24	27
State corporate taxes.....				
Miscellaneous.....				5
Total taxes.....	29	72	236	372

BUNTE BROTHERS

			5,430	5,585
Sales.....			5,430	5,585
Gross profits.....			1,491	1,150
Net income.....			390	137
Profit rate.....			15.04	5.17
Equity Ratio.....			6.21	9.65
Federal corporate income tax.....			60	8
Undistributed profits tax.....			14	
Federal capital stock tax.....			3	3
Federal excises.....				
Federal-State payroll taxes.....			14	43
State income taxes.....				
State sales taxes.....				
Property taxes.....			23	25
State corporate taxes.....			1	1
Miscellaneous.....				
Total taxes.....			115	80

Indicate no data available.

X indicates less than \$1,000.

BURROUGHS ADDING MACHINE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	24,588	27,906	32,527	38,395
Gross profits.....	13,142	15,575	19,085	23,514
Net income.....	3,842	6,029	8,241	10,065
Profit rate.....	14.17	22.08	29.19	34.31
Equity ratio.....	16.94	11.96	9.29	7.81
Federal corporate income tax.....	330	617	996	1,214
Undistributed profits tax.....			18	44
Federal capital stock tax.....	78	78	152	154
Federal excises.....		X	X	X
Federal-State payroll taxes.....			156	540
State income taxes.....	5	6	31	44
State sales taxes.....	4	6	9	13
Property taxes.....	372	376	404	454
State corporate taxes.....	52	53	54	63
Miscellaneous.....	19	19	14	25
Total taxes.....	860	1,155	1,834	2,551

BURRY BISCUIT CORP.

Sales.....			2,771	2,128
Gross profits.....			645	758
Net income.....			193	172
Profit rate.....				21.28
Equity ratio.....			4.40	5.73
Federal corporate income tax.....			25	38
Undistributed profits tax.....			X	X
Federal capital stock tax.....			9	7
Federal excises.....				
Federal-State payroll taxes.....			3	13
State income taxes.....				
State sales taxes.....				
Property taxes.....			X	4
State corporate taxes.....			X	1
Miscellaneous.....				
Total taxes.....			37	63

BUTLER BROTHERS

Sales.....	73,786	73,150	81,367	84,710
Gross profits.....	12,463	11,982	14,080	14,375
Net income.....	1,900	1,927	2,674	2,065
Profit rate.....	7.47	7.39	8.99	6.90
Equity ratio.....	1.46	1.65	4.87	4.81
Federal corporate income tax.....	175	185	257	251
Undistributed profits tax.....			135	32
Federal capital stock tax.....	23	28	38	39
Federal excises.....	9	X		
Federal-State payroll taxes.....			82	264
State income taxes.....	10	12	13	12
State sales taxes.....	40	48	18	22
Property taxes.....	344	342	452	456
State corporate taxes.....	33	42		28
Miscellaneous.....	2	1		5
Total taxes.....	636	658	1,056	1,109

.... Indicate no data available.
X Indicates less than \$1,000.

CALIFORNIA ART TILE CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....		72	164	211
Gross profits.....		37	79	89
Net income.....		(1)	44	44
Profit rate.....		(0.26)	19.61	20.33
Equity ratio.....		77.61	8.31	11.32
Federal corporate income tax.....			7	5
Undistributed profits tax.....				
Federal capital stock tax.....		X	1	1
Federal excises.....				
Federal-State payroll taxes.....			X	2
State income taxes.....		X	2	2
State sales taxes.....				X
Property taxes.....		3	3	3
State corporate taxes.....		X	X	X
Miscellaneous.....		X		
Total taxes.....		3	13	13

CALIFORNIA COTTON MILLS COMPANY

Sales.....	2,690	2,882	2,830	2,812
Gross profits.....	804	526	507	608
Net income.....	184	213	256	81
Profit rate.....	4.47	5.06	6.30	2.00
Equity ratio.....	.74	.74	.96	1.07
Federal corporate income tax.....	1	8	12	
Undistributed profits tax.....				
Federal capital stock tax.....	3	2	5	4
Federal excises.....				
Federal-State payroll taxes.....			8	22
State income taxes.....	1	2	3	X
State sales taxes.....	6	5	9	7
Property taxes.....	28	26	29	28
State corporate taxes.....				
Miscellaneous.....			1	1
Total taxes.....	39	43	67	62

THE CALIFORNIA INK COMPANY, INCORPORATED

Sales.....		1,914	2,314	2,604
Gross profits.....		808	966	1,030
Net income.....		375	476	444
Profit rate.....		18.57	22.31	19.82
Equity ratio.....		11.57	8.61	12.93
Federal corporate income tax.....		49	62	60
Undistributed profits tax.....		X		2
Federal capital stock tax.....		5	5	5
Federal excises.....				
Federal-State payroll taxes.....		X	4	12
State income taxes.....		11	15	19
State sales taxes.....		X	1	1
Property taxes.....		11	13	13
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		76	100	112

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CALIFORNIA PACKING CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	54,336	58,188	61,750	61,176
Gross profits.....	14,146	14,284	16,929	15,849
Net income.....	4,213	3,247	6,078	3,603
Profit rate.....	7.94	6.61	11.63	6.72
Equity ratio.....	2.61	2.83	2.30	2.39
Federal corporate income tax.....	331	260	768	355
Undistributed profits tax.....				25
Federal capital stock tax.....	72	70	53	55
Federal excises.....	6	X	1	2
Federal-State payroll taxes.....			131	375
State income taxes.....	29	83	50	216
State sales taxes.....	17	61	142	121
Property taxes.....	428	424	430	472
State corporate taxes.....	26	66	4	4
Miscellaneous.....	30	47	39	34
Total taxes.....	939	1,011	1,618	1,659

Fiscal year ended Feb. 28.

THE CANFIELD OIL COMPANY

Sales.....	4,462	4,779	5,573	5,430
Gross profits.....	921	941	1,078	1,006
Net income.....	(81)	17	119	68
Profit rate.....	(4.07)	0.89	5.96	3.40
Equity ratio.....	5.05	5.55	3.70	4.89
Federal corporate income tax.....		1	22	9
Undistributed profits tax.....	X	X		
Federal capital stock tax.....	2	3	1	2
Federal excises.....				
Federal-State payroll taxes.....	X	X	6	18
State income taxes.....			2	1
State sales taxes.....				2
Property taxes.....	31	32	43	32
State corporate taxes.....	2	3	3	4
Miscellaneous.....				
Total taxes.....	35	39	77	68

THE CARPENTER STEEL COMPANY

Sales.....		5,458	7,953	4,945
Gross profits.....		2,215	3,256	1,607
Net income.....		808	1,612	287
Profit rate.....		12.21	22.73	4.05
Equity ratio.....		11.55	6.39	24.63
Federal corporate income tax.....		116	297	31
Undistributed profits taxes.....			64	
Federal capital stock tax.....		8	9	12
Federal excises.....				
Federal-State payroll taxes.....			59	72
State income taxes.....		27	80	9
State sales taxes.....		X	X	X
Property taxes.....		30	34	35
State corporate taxes.....		15	25	25
Miscellaneous.....		11		
Total taxes.....		207	568	184

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CARTIAGE MILLS INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	1,436	1,608	2,091	1,474
Gross profits.....	510	497	512	461
Net income.....	206	148	125	86
Profit rate.....	14.18	10.90	9.08	6.40
Equity ratio.....	3.07	3.79	3.39	5.22
Federal corporate income tax.....	26	19	16	9
Undistributed profits tax.....			3	
Federal capital stock tax.....	2	2	2	2
Federal excises.....			4	10
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....	12	11	12	12
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	41	33	38	34

CASCO PRODUCTS CORP.

Sales.....		2,145	3,160	2,840
Gross profits.....		765	1,336	1,287
Net income.....		368	576	336
Profit rate.....		67.00	59.77	35.23
Equity ratio.....		2.89	3.11	6.17
Federal corporate income tax.....		64	86	47
Undistributed profits tax.....			6	1
Federal capital stock tax.....		1	8	8
Federal excises.....		20	27	23
Federal-State payroll taxes.....			13	26
State income taxes.....		8	12	7
State sales taxes.....				
Property taxes.....		1	5	8
State corporate taxes.....				
Miscellaneous.....		1		
Total taxes.....		95	157	120

J. I. CASE COMPANY

Sales.....	8,586	17,037	21,906	27,429
Gross profits.....	3,556	8,410	10,694	11,956
Net income.....	(700)	2,230	3,783	4,826
Profit rate.....	(1.96)	6.00	10.00	
Equity ratio.....	34.28	18.81	19.19	8.40
Federal corporate income tax.....		284	691	977
Undistributed profits tax.....			159	524
Federal capital stock tax.....	29	28	42	44
Federal excises.....				
Federal-State payroll taxes.....			90	267
State income taxes.....	20	27	84	149
State sales taxes.....				
Property taxes.....	253	258	259	247
State corporate taxes.....			31	20
Miscellaneous.....				
Total taxes.....	302	597	1,356	2,228

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

A. M. CASTLE AND COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		4,020	6,011	7,926
Gross profits.....	1,184	1,140	1,578	2,482
Net income.....	428	425	714	1,273
Profit rate.....	9.69	9.70	15.88	26.41
Equity ratio.....	26.11	19.25	10.19	10.05
Federal corporate income tax.....	38	54	106	223
Undistributed profits tax.....			18	48
Federal capital stock tax.....	4	11	4	7
Federal excises.....				
Federal-State payroll taxes.....			6	24
State income taxes.....	1	8	10	12
State sales taxes.....	4	4	7	7
Property taxes.....	35	42	42	48
State corporate taxes.....		X		
Miscellaneous.....	1	X	1	X
Total taxes.....	83	119	194	369

CATALIN CORP. OF AMERICA

Sales.....		1,485	1,629	1,352
Gross profits.....		570	613	498
Net income.....		295	337	132
Profit rate.....		25.08	27.18	9.91
Equity ratio.....		6.92	7.58	12.46
Federal corporate income tax.....		40	49	41
Undistributed profits tax.....			7	22
Federal capital stock tax.....		5	5	5
Federal excises.....				
Federal-State payroll taxes.....			3	8
State income taxes.....	X		X	X
State sales taxes.....		1	1	1
Property taxes.....				
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....		46	65	77

CELANESE CORP. OF AMERICA

Sales.....			30,891	34,004
Gross profits.....	8,170	9,807	11,117	12,042
Net income.....	3,732	4,798	5,454	5,332
Profit rate.....	10.50	11.49	11.56	11.15
Equity ratio.....	8.09	4.57	5.06	5.25
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

... indicate no data available.

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CELOTEX CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....			7,777	10,729
Gross profits.....			3,743	5,108
Net income.....			928	1,554
Profit rate.....			13.79	17.26
Equity ratio.....			1.23	.99
Federal corporate income tax.....			29	64
Undistributed profits tax.....				
Federal capital stock tax.....			23	18
Federal excises.....				
Federal-State payroll taxes.....			20	75
State income taxes.....				2
State sales taxes.....				
Property taxes.....			44	58
State corporate taxes.....			1	5
Miscellaneous.....				2
Total taxes.....			117	224

CENTLIVRE BREWING CORP.

Sales.....	1,376	1,402	1,513	1,483
Gross profits.....	731	1,176	1,180	1,083
Net income.....	187	170	166	80
Profit rate.....	24.79	21.76	19.32	9.40
Equity ratio.....	12.72	7.57	2.60	3.25
Federal corporate income tax.....	27	23	25	8
Undistributed profits tax.....				
Federal capital stock tax.....	2	1	3	2
Federal excises.....	480	509	532	497
Federal-State payroll taxes.....			2	7
State income taxes.....				
State sales taxes.....	131	95	112	138
Property taxes.....	7	7	6	6
State corporate taxes.....				
Miscellaneous.....		2		
Total taxes.....	647	637	680	658

CENTRAL BREWERIES, INC.

Sales.....		906	1,349	1,281
Gross profits.....		622	951	824
Net income.....		(62)	98	13
Profit rate.....		(7.56)	11.49	1.54
Equity ratio.....		1.35	1.87	2.01
Federal corporate income tax.....			11	
Undistributed profits tax.....				
Federal capital stock tax.....		1	1	1
Federal excises.....		389	554	529
Federal-State pay roll taxes.....			2	6
State income taxes.....				
State sales taxes.....				
Property taxes.....		9	7	7
State corporate taxes.....		X	X	X
Miscellaneous.....		1	1	1
Total taxes.....		400	576	544

---- indicate no data available.

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CENTRAL FOUNDRY CO. INC.

[\$000's]

	1934	1935	1936	1937
Sales.....			4,577	4,240
Gross profits.....			808	934
Net income.....			66	28
Profit rate.....			1.43	0.61
Equity ratio.....			1.82	2.89
Federal corporate income tax.....			2	
Undistributed profits tax.....				
Federal capital stock tax.....			8	9
Federal excises.....			X	1
Federal-State payroll taxes.....			19	55
State income taxes.....				
State sales taxes.....			X	1
Property taxes.....			24	23
State corporate taxes.....			2	3
Miscellaneous.....			1	
Total taxes.....			56	92

CENTURY RIBBON MILLS, INCORPORATED

Sales.....	1,952	1,991	2,054	2,242
Gross profits.....	785	654	846	792
Net income.....	239	146	328	226
Profit rate.....	6.41	4.06	9.00	1.26
Equity ratio.....	2.61	2.20	1.69	2.13
Federal corporate income tax.....	11	1	26	7
Undistributed profits tax.....			20	4
Federal capital stock tax.....	4	3	2	3
Federal excises.....	1	1	X	1
Federal-State payroll taxes.....			11	32
State income taxes.....	2	3	6	6
State sales taxes.....	X	1	1	2
Property taxes.....	22	20	19	20
State corporate taxes.....			9	1
Miscellaneous.....	X	X	X	
Total taxes.....	40	29	94	76

CERTAINTIED PRODUCTS CORPORATION

Sales.....	10,938	14,155	15,669	16,490
Gross profits.....	3,367	4,537	4,365	5,083
Net income.....	(322)	834	(46)	631
Profit rate.....	(1.60)	4.09	(0.24)	3.30
Equity ratio.....	1.04	1.50	91	94
Federal corporate income tax.....	0	32	2	6
Undistributed profits tax.....				
Federal capital stock tax.....	12	14	14	14
Federal excises.....	2			
Federal-State payroll taxes.....			19	124
State income taxes.....	1	1	2	1
State sales taxes.....			X	X
Property taxes.....	118	124	124	131
State corporate taxes.....	3	4	11	7
Miscellaneous.....				
Total taxes.....	136	175	172	283

--- indicate no data available.

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() indicate deficit.

CHAMBERLIN-METAL-WEATHER-STRIP CO.

[\$000's]

	1934	1935	1936	1937
Sales.....				4,192
Gross profits.....				2,101
Net income.....				173
Profit rate.....				11.75
Equity ratio.....				3.42
Federal corporate income tax.....				24
Undistributed profits tax.....				4
Federal capital stock tax.....				2
Federal excises.....				
Federal-State payroll taxes.....				71
State income taxes.....				5
State sales taxes.....				11
Property taxes.....				19
State corporate taxes.....				3
Miscellaneous.....				3
Total taxes.....				142

CHAMPION SHOE MACHINERY CO.

	1934	1935	1936	1937
Sales.....	524	616	411	461
Gross profits.....	309	363	187	224
Net income.....	(28)	30	(71)	(35)
Profit rate.....	(1.66)	1.94	(5.10)	(2.58)
Equity ratio.....	67	66	61	57
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	5
State income taxes.....				
State sales taxes.....	1	1	X	X
Property taxes.....	4	4	4	4
State corporate taxes.....	2	2	2	2
Miscellaneous.....				
Total taxes.....	7	7	9	12

CHARIS CORPORATION

	1934	1935	1936	1937
Sales.....			1,481	1,467
Gross profits.....	705	760	708	651
Net income.....	188	187	159	115
Profit rate.....	13.94	15.43	13.21	9.86
Equity ratio.....	7.76	14.24	9.41	10.90
Federal corporate income tax.....	24	24	21	14
Undistributed profits tax.....				
Federal capital stock tax.....	3	3	3	3
Federal excises.....				
Federal-State payroll taxes.....			4	32
State income taxes.....		4	7	5
State sales taxes.....				
Property taxes.....	3	3	3	3
State corporate taxes.....	1	4	5	5
Miscellaneous.....				
Total taxes.....	31	38	43	62

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CHECKER-CAB-MANUFACTURING CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	1,165	2,679	5,648	1,004
Gross profits.....	146	582	1,373	(26)
Net income.....	(286)	62	872	(241)
Profit rate.....	(10.03)	2.18	23.52	(6.86)
Equity ratio.....	2.32	3.04	2.01	4.30
Federal corporate income tax.....			69	
Undistributed profits tax.....			82	
Federal capital stock tax.....	4	3		7
Federal excises.....	11	63	147	5
Federal-State payroll taxes.....			8	12
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	16	13	17	14
State corporate taxes.....	3	3	3	2
Miscellaneous.....	X	X	X	X
Total taxes.....	34	82	333	40

CHERRY-BURRELL CORPORATION

Sales.....		8,544	9,616	10,904
Gross profits.....		2,954	3,267	3,764
Net income.....		952	1,241	1,500
Profit rate.....		13.73	17.85	20.53
Equity ratio.....		5.60	8.04	7.36
Federal corporate income tax.....		108	149	204
Undistributed profits tax.....				44
Federal capital stock tax.....		19	14	15
Federal excises.....				
Federal-State payroll taxes.....			18	61
State income taxes.....		10	24	34
State sales taxes.....		4	2	1
Property taxes.....		50	47	49
State corporate taxes.....				
Miscellaneous.....		4	4	3
Total taxes.....		195	258	411

CHICAGO FLEXIBLE SHAFT CO.

Sales.....	3,245	4,747	6,813	7,392
Gross profits.....	1,401	1,973	2,701	2,828
Net income.....	344	807	1,274	1,168
Profit rate.....	14.97	27.82	38.56	33.40
Equity ratio.....	11.77	6.24	4.09	5.28
Federal corporate income tax.....	79	140	193	169
Undistributed profits tax.....			70	27
Federal capital stock tax.....	3	15	16	18
Federal excises.....				
Federal-State payroll taxes.....			18	63
State income taxes.....	X	X	X	X
State sales taxes.....			X	X
Property taxes.....	15	20	25	26
State corporate taxes.....	1	1	1	1
Miscellaneous.....	1	X	X	1
Total taxes.....	99	176	323	305

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CHICAGO PNEUMATIC TOOL

[\$000's]

	1934	1935	1936	1937
Sales	7,103	9,055	10,953	13,566
Gross profits	3,478	4,630	5,403	6,874
Net income	611	984	1,506	2,206
Profit rate	3.54	5.49	8.38	15.69
Equity ratio	4.10	3.59	3.80	7.98
Federal corporate income tax		21	124	252
Undistributed profits tax			3	73
Federal capital stock tax	8	5	10	8
Federal excises				
Federal-State payroll taxes			32	110
State income taxes		X	17	19
State sales taxes	X	X	19	9
Property taxes	65	70	82	80
State corporate taxes	8	8	24	21
Miscellaneous				
Total taxes	81	104	311	572

CHICKASHA COTTON OIL CO.

Sales	6,500	10,622	6,819	7,256
Gross profits	1,104	721	407	766
Net income	639	147	(25)	215
Profit rate	7.17	1.78	(0.32)	2.75
Equity ratio	21.34	21.26	56.53	39.49
Federal corporate income tax	191	73	19	2
Undistributed profits tax				
Federal capital stock tax	9	9	13	13
Federal excises				
Federal-State payroll taxes			3	12
State income taxes	46	14		
State sales taxes				
Property taxes	99	85	99	94
State corporate taxes		5	7	6
Miscellaneous				
Total taxes	345	186	141	127

CHRYSLER CORPORATION

Sales	371,657	516,830	667,138	769,808
Gross profits	76,929	114,701	150,858	162,629
Net income	13,723	44,806	76,201	63,031
Profit rate	11.88	38.30	61.79	48.32
Equity ratio	1.27	1.56	1.64	3.37
Federal corporate income tax	1,847	8,906	12,769	10,956
Undistributed profits tax			1,200	1,300
Federal capital stock tax	145	448	918	739
Federal excises	9,315	13,283	17,861	20,467
Federal-State payroll taxes			1,133	3,830
State income taxes	20	65	130	175
State sales taxes	76	84	123	162
Property taxes	2,008	2,094	2,180	2,394
State corporate taxes	61	112	97	143
Miscellaneous	42	62	67	77
Total taxes	13,544	25,054	36,469	40,217

.. Indicate no data available.

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THE CINCINNATI UNION STOCK YARD COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	452	370	379	354
Gross profits.....	264	202	219	199
Net income.....	191	154	135	94
Profit rate.....	8.04	6.61	5.83	4.16
Equity ratio.....	68.46	77.46	75.86	88.90
Federal corporate income tax.....	24	17	17	11
Undistributed profits tax.....		0	0	0
Federal capital stock tax.....	2	2	2	2
Federal excises.....	X			
Federal-State pay-roll taxes.....				
State income taxes.....				
State sales taxes.....	0	X	X	1
Property taxes.....	18	16	17	17
State corporate taxes.....	2	2	2	2
Miscellaneous.....	0	0	0	0
Total taxes.....	46	37	38	33

THE CITY ICE AND FUEL COMPANY

Sales.....	26,472	25,710	29,043	28,971
Gross profits.....	11,521	10,111	12,092	11,712
Net income.....	5,441	3,965	5,039	4,342
Profit rate.....	8.68	6.54	11.32	10.09
Equity ratio.....	6.31	7.14	5.32	6.52
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State pay roll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

THE CLARK CONTROLLER COMPANY

Sales.....		1,321	2,093	2,545
Gross profits.....		746	1,199	1,329
Net income.....		311	596	598
Profit rate.....		56.52	70.23	54.88
Equity ratio.....		2.06	2.07	6.30
Federal corporate income tax.....		53	91	83
Undistributed profits tax.....			8	9
Federal capital stock tax.....		3	6	5
Federal excises.....	X		X	X
Federal-State pay roll taxes.....			6	21
State income taxes.....				
State sales taxes.....	X		1	1
Property taxes.....		6	7	10
State corporate taxes.....	X		1	1
Miscellaneous.....				
Total taxes.....		62	120	130

---- indicate no data available.

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CLARK EQUIPMENT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....			9,482	12,718
Gross profits.....	1,128	1,139	2,064	3,026
Net income.....	199	16	618	1,416
Profit rate.....	2.70	0.22	7.68	16.57
Equity ratio.....	34.98	20.77	5.12	6.34
Federal corporate income tax.....	2	11	85	230
Undistributed profits tax.....			3	X
Federal capital stock tax.....	10	11	14	10
Federal excises.....	1	X		
Federal-State pay roll taxes.....			33	118
State income taxes.....	X	X	X	X
State sales taxes.....	3			X
Property taxes.....	57	52	49	52
State corporate taxes.....	24	24	25	18
Miscellaneous.....	X	X	X	1
Total taxes.....	97	98	209	429

THE CLEVELAND-GRAPHITE-BRONZE CO.

Sales.....	4,696	7,084	7,754	10,388
Gross profits.....	1,545	2,872	3,076	4,080
Net income.....	657	1,617	1,635	1,952
Profit rate.....	35.30	64.87	52.68	52.68
Equity ratio.....	4.65	3.40	4.87	5.80
Federal corporate income tax.....	82	252	229	292
Undistributed profits tax.....	X	X	65	97
Federal capital stock tax.....	6	12	16	18
Federal excises.....				
Federal-State pay roll taxes.....	X	X	27	105
State income taxes.....				
State sales taxes.....	12	18	22	27
Property taxes.....	2	2	3	3
State corporate taxes.....	X	X		
Miscellaneous.....				
Total taxes.....	102	284	362	542

THE CLEVELAND TRACTOR COMPANY

Sales.....		6,065	5,349	7,820
Gross profits.....		1,308	1,119	1,845
Net income.....		343	105	362
Profit rate.....		14.41	2.88	9.79
Equity ratio.....		1.86	1.27	1.07
Federal corporate income tax.....		28	6	59
Undistributed profits tax.....			0	61
Federal capital stock tax.....		6	7	7
Federal excises.....		0	0	0
Federal-State payroll taxes.....			10	40
State income taxes.....		0	0	X
State sales taxes.....		3	3	3
Property taxes.....		33	37	45
State corporate taxes.....		1	3	X
Miscellaneous.....		0	X	0
Total taxes.....		71	66	215

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CLIMAX MOLYBDENUM COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....				17,038
Gross profits.....				11,218
Net income.....				8,126
Profit rate.....				10.20
Equity ratio.....				49.42
Federal corporate income tax.....				887
Undistributed profits tax.....				65
Federal capital stock tax.....				79
Federal excises.....				
Federal-State payroll taxes.....				98
State income taxes.....				36
State sales taxes.....				55
Property taxes.....				87
State corporate taxes.....				8
Miscellaneous.....				
Total taxes.....				1,315

CLOROX CHEMICAL CO.

Sales.....		3,122	3,068	2,911
Gross profits.....	1,813	2,078	1,939	1,840
Net income.....	420	450	486	470
Profit rate.....	25.76	28.70	29.94	28.93
Equity ratio.....	5.32	3.67	3.98	7.39
Federal corporate income tax.....	64	63	62	61
Undistributed profits tax.....				1
Federal capital stock tax.....	5	7	7	7
Federal excises.....				
Federal-State payroll taxes.....			5	6
State income taxes.....	4	6	5	9
State sales taxes.....	1	1	1	1
Property taxes.....	8	9	10	17
State corporate taxes.....	1	X	X	1
Miscellaneous.....				
Total taxes.....	83	86	90	103

CLUB ALUMINUM UTENSIL COMPANY

Sales.....	22	22	40	59
Gross profits.....	13	14	32	52
Net income.....	9	11	54	109
Profit rate.....	7.22	8.19	30.38	18.26
Equity ratio.....	.14	.17	.27	.53
Federal corporate income tax.....				7
Undistributed profits tax.....				
Federal capital stock tax.....		X	X	2
Federal excises.....				
Federal-State payroll taxes.....		X	X	X
State income taxes.....				
State sales taxes.....				
Property taxes.....	1	1	1	1
State corporate taxes.....	X	X	X	X
Miscellaneous.....		X		
Total taxes.....	1	1	1	10

---- indicate no data available.

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CLUETT PEABODY & CO. INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	13,969	15,122	18,436	21,571
Gross profits.....	4,059	4,017	5,389	5,769
Net income.....	983	991	2,053	1,543
Profit rate.....	8.79	8.81	18.06	11.23
Equity ratio.....	8.33	12.69	4.26	4.01
Federal corporate income tax.....	101	73	205	98
Undistributed profits tax.....			12	X
Federal capital stock tax.....	8	8	20	20
Federal excises.....				
Federal-State payroll taxes.....			56	168
State income taxes.....	23	26	38	64
State sales taxes.....				
Property taxes.....	64	72	107	78
State corporate taxes.....	3	4	8	3
Miscellaneous.....				29
Total taxes.....	199	183	446	460

COLGATE-PALMOLIVE-PEET COMPANY

Sales.....	71,969	81,684	89,631	99,991
Gross profits.....	38,453	40,645	42,186	46,636
Net income.....	5,704	6,580	7,313	3,442
Profit rate.....	9.97	11.26	12.43	6.04
Equity ratio.....	10.70	8.92	7.01	6.90
Federal corporate income tax.....			389	60
Undistributed profits tax.....			28	
Federal capital stock tax.....			70	71
Federal excises.....			3,946	4,175
Federal-State payroll taxes.....			92	304
State income taxes.....			30	14
State sales taxes.....				
Property taxes.....			493	486
State corporate taxes.....				
Miscellaneous.....			13	13
Total taxes.....			5,061	5,123

COLLINS AND AIKMAN CORP.

Sales.....				
Gross profits.....	2,497	7,603	9,611	5,977
Net income.....	308	4,932	6,413	2,950
Profit rate.....	2.15	28.65	36.67	17.10
Equity ratio.....	18.45	7.22	5.55	12.96
Federal corporate income tax.....	19	812	989	434
Undistributed profits tax.....			187	16
Federal capital stock tax.....	15	32	51	51
Federal excises.....				
Federal-State payroll taxes.....			73	160
State income taxes.....	2	126	222	90
State sales taxes.....	X	X	X	X
Property taxes.....	74	75	76	77
State corporate taxes.....	18	54	82	49
Miscellaneous.....		7		
Total taxes.....	128	1,106	1,680	877

--- Indicate no data available.

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THE COLORADO FUEL AND IRON CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			26,953	20,119
Gross profits.....			9,528	6,125
Net income.....			2,437	(36)
Profit rate.....			7.08	(0.11)
Equity ratio.....			.97	1.06
Federal corporate income tax.....			198	1
Undistributed profits tax.....				
Federal capital stock tax.....			43	33
Federal excises.....			7	10
Federal-State payroll taxes.....			376	329
State income taxes.....			3	1
State sales taxes.....			39	17
Property taxes.....			607	645
State corporate taxes.....			2	2
Miscellaneous.....				
Total taxes.....			1,275	1,038

COLUMBIA BREWING CO.

Sales.....	901	1,239	1,374	1,475
Gross profits.....	678	926	1,054	1,094
Net income.....	27	70	65	(11)
Profit rate.....	3.95	9.54	9.22	(1.50)
Equity ratio.....	3.56	3.52	4.16	2.78
Federal corporate income tax.....	4	9	7	
Undistributed profits tax.....			3	
Federal capital stock tax.....	1	1	1	1
Federal excises.....	321	427	458	485
Federal-State payroll taxes.....			2	9
State income taxes.....	X	1	1	
State sales taxes.....	29	51	55	55
Property taxes.....	3	3	5	5
State corporate taxes.....	6	5	4	4
Miscellaneous.....				
Total taxes.....	364	497	536	559

COMMERCIAL SOLVENTS CORPORATION

Sales.....	10,813	20,380	20,707	19,936
Gross profits.....	4,268	6,139	5,461	4,751
Net income.....	2,653	3,254	2,624	2,052
Profit rate.....	16.46	16.96	14.24	10.35
Equity ratio.....	14.18	8.51	8.59	2.96
Federal corporate income tax.....	240	350	345	276
Undistributed profits tax.....				
Federal capital stock tax.....	40	44	23	35
Federal excises.....	2,580	9,591	25,858	24,289
Federal-State payroll taxes.....			21	67
State income taxes.....	6	11	16	10
State sales taxes.....	X	4	10	4
Property taxes.....	50	63	83	87
State corporate taxes.....	6	7	13	8
Miscellaneous.....	X	7	12	13
Total taxes.....	2,922	10,077	26,381	24,789

... indicate no data available.

X indicates less than \$1,000

() indicate deficit.

CONDÉ NAST PUBLICATIONS, INC.

[\$000's]

	1934	1935	1936	1937
Sales	6,502	7,632	7,970	8,982
Gross profits	3,057	2,575	3,178	4,105
Net income	155	(95)	191	334
Profit rate	2.81	(1.83)	3.75	6.38
Equity ratio	2.64	2.68	3.04	2.13
Federal corporate income tax			43	22
Undistributed profits tax				
Federal capital stock tax	8	8	4	7
Federal excises				
Federal-State payroll taxes			26	79
State income taxes	2	6	5	9
State sales taxes				21
Property taxes	20	19	19	19
State corporate taxes				1
Miscellaneous				1
Total taxes	30	33	97	159

CONGOLEUM-NAIRN INC.

Sales	13,697	16,682	19,748	19,416
Gross profits	5,785	6,570	7,338	7,902
Net income	2,381	2,608	3,085	3,014
Profit rate	10.11	11.03	12.85	12.53
Equity ratio	32.92	28.34	15.78	21.46
Federal corporate income tax	244	325	450	430
Undistributed profits tax				
Federal capital stock tax	27	32	31	33
Federal excises	5	3	3	1
Federal-State payroll taxes			54	177
State income taxes	X	44	54	40
State sales taxes		X		
Property taxes	212	232	234	205
State corporate taxes	3	8	41	55
Miscellaneous	2	2	3	3
Total taxes	493	646	875	944

CONGRESS CIGAR CO. INC.

Sales	3,450	2,839	5,514	5,202
Gross profits	1,619	1,280	1,969	1,839
Net income	18	207	261	128
Profit rate	0.26	3.31	4.45	2.29
Equity ratio	66.50	30.08	29.63	19.74
Federal corporate income tax	X	21	37	15
Undistributed profits tax				
Federal capital stock tax	5	5	8	7
Federal excises	225	191	382	342
Federal-State payroll taxes			12	34
State income taxes	2	5	5	6
State sales taxes				
Property taxes	18	13	15	25
State corporate taxes	1	2	2	6
Miscellaneous	73	17	1	13
Total taxes	324	254	462	448

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CONSOLIDATED BISCUIT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		2,978	4,980	5,252
Gross profits.....		401	990	829
Net income.....		112	389	222
Profit rate.....		16.09	20.77	12.51
Equity ratio.....		1.35	1.07	1.29
Federal corporate income tax.....		16	46	15
Undistributed profits tax.....			10	
Federal capital stock tax.....		2	6	6
Federal excises.....			1	
Federal-State payroll taxes.....			9	30
State income taxes.....			4	1
State sales taxes.....			1	X
Property taxes.....		2	4	9
State corporate taxes.....			1	X
Miscellaneous.....			1	X
Total taxes.....		20	83	61

CONSOLIDATED CIGAR CORPORATION

Sales.....	9,622	9,549	10,022	11,001
Gross profits.....	4,383	4,327	4,640	5,272
Net income.....	841	755	1,109	1,234
Profit rate.....	5.30	4.84	7.19	8.11
Equity ratio.....	25.79	37.28	25.39	19.88
Federal corporate income tax.....	40	22	105	142
Undistributed profits tax.....	6	9	10	10
Federal capital stock tax.....				
Federal excises.....	829	700	667	721
Federal-State payroll taxes.....			27	83
State income taxes.....		14	48	40
State sales taxes.....				
Property taxes.....	20	24	20	26
State corporate taxes.....	6	36	27	30
Miscellaneous.....				
Total taxes.....	901	805	904	1,052

CONSOLIDATED STEEL CORPORATION LIMITED

Sales.....	4,870	3,934	5,243	5,987
Gross profits.....	398	598	1,014	1,139
Net income.....	6	200	567	649
Profit rate.....	0.10	4.25	11.80	12.91
Equity ratio.....	4.21	3.25	1.76	1.64
Federal corporate income tax.....		16	62	88
Undistributed profits tax.....			11	43
Federal capital stock tax.....	4	5	5	5
Federal excises.....			2	3
Federal-State payroll taxes.....			15	30
State income taxes.....	X	X	5	17
State sales taxes.....			2	1
Property taxes.....	43	51	49	66
State corporate taxes.....		X	X	X
Miscellaneous.....				
Total taxes.....	47	72	151	253

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CONCENTRATION OF ECONOMIC POWER

18265

CONSUMERS COMPANY OF ILLINOIS, VT.

[\$000's]

	1934	1935	1936	1937
Sales.....				10,753
Gross profits.....				1,778
Net income.....				81
Profit rate.....				1.28
Equity ratio.....				
Federal Corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

CONTINENTAL BAKING CORP.

	1934	1935	1936	1937
Sales.....	47,733	50,961	58,164	69,493
Gross profits.....	8,142	7,659	22,394	26,611
Net income.....	2,406	2,295	4,222	4,940
Profit rate.....	4.97	4.84	8.84	10.37
Equity ratio.....	16.63	31.90	26.60	21.96
Federal corporate income tax.....	297	312	729	873
Undistributed profits tax.....	0	0	0	0
Federal capital stock tax.....	20	49	119	59
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....	0	0	184	642
State income taxes.....	42	33	53	69
State sales taxes.....	56	69	85	96
Property taxes.....	372	377	386	399
State corporate taxes.....	19	28	24	25
Miscellaneous.....	0	0	12	14
Total taxes.....	806	868	1,592	2,177

CONTINENTAL CAN CO., INC.

	1934	1935	1936	1937
Sales.....	68,207	80,923	91,172	93,879
Gross profits.....	23,155	24,422	23,072	23,454
Net income.....	13,020	13,532	10,706	10,487
Profit rate.....	15.65	15.45	11.09	9.03
Equity ratio.....	15.51	15.70	14.03	6.86
Federal corporate income tax.....	2,212	2,250	1,600	1,399
Undistributed profits tax.....				1
Federal capital stock tax.....	94	242	112	176
Federal excises.....	13	2	2	
Federal-State payroll taxes.....			206	691
State income taxes.....	40	81	101	77
State sales taxes.....	32	30	24	25
Property taxes.....	384	356	520	586
State corporate taxes.....	14	20	32	46
Miscellaneous.....				
Total taxes.....	2,789	2,981	2,597	3,001

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CONTINENTAL-DIAMOND FIBRE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	4,584	5,718	6,895	6,773
Gross profits.....	1,336	1,672	2,340	1,898
Net income.....	(78)	226	740	364
Profit rate.....	(1.12)	3.42	11.90	6.19
Equity ratio.....	22.79	15.23	10.41	11.34
Federal corporate income tax.....		20	94	46
Undistributed profits tax.....				
Federal capital stock tax.....	5	8	7	5
Federal excises.....	3	2	2	2
Federal-State payroll taxes.....			18	61
State income taxes.....		3	16	6
State sales taxes.....	1	1	1	1
Property taxes.....	33	28	28	26
State corporate taxes.....	1	11	12	9
Miscellaneous.....				
Total taxes.....	43	73	178	156

CONTINENTAL MOTORS CORPORATION

Sales.....		4,632	5,849	8,214
Gross profits.....		545	814	1,557
Net income.....		(837)	(567)	186
Profit rate.....		(12.86)	(9.71)	3.13
Equity ratio.....		3.29	2.28	2.34
Federal corporate income tax.....		3	2	
Undistributed profits tax.....				
Federal capital stock tax.....		4	5	4
Federal excises.....		1	1	3
Federal-State payroll taxes.....			18	71
State income taxes.....				X
State sales taxes.....				
Property taxes.....		99	83	76
State corporate taxes.....		47	29	13
Miscellaneous.....		X	X	X
Total taxes.....		154	138	167

CONTINENTAL OIL COMPANY

Sales.....	65,721	69,501	75,762	89,180
Gross profits.....	14,563	32,429	39,498	48,328
Net income.....	5,392	9,037	10,235	14,569
Profit rate.....	4.05	4.45	3.46	3.49
Equity ratio.....	12.42	11.34	10.51	10.15
Federal corporate income tax.....	127	191	496	446
Undistributed profits tax.....				
Federal capital stock tax.....	58	55	77	64
Federal excises.....	66	62	55	87
Federal-State payroll taxes.....			125	401
State income taxes.....	36	14	107	161
State sales taxes.....				
Property taxes.....	1,057	1,095	1,035	1,186
State corporate taxes.....	53	50	65	61
Miscellaneous.....				
Total taxes.....	1,397	1,467	1,960	2,406

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COOK PAINT AND VARNISH CO.

[\$000's]

	1934	1935	1936	1937
Sales		5,357	6,418	6,667
Gross profits		2,371	2,749	2,745
Net income		487	606	560
Profit rate		13.98	15.34	
Equity ratio		8.09	6.98	8.48
Federal corporate income tax		66	90	75
Undistributed profits tax			19	13
Federal capital stock tax		3	6	7
Federal excises				
Federal-State payroll taxes			14	43
State income taxes		2	3	7
State sales taxes				
Property taxes		22	19	20
State corporate taxes		3	3	3
Miscellaneous				
Total taxes		96	154	168

COOPER BESSEMER CORPORATION

Sales	2,036	2,545	5,783	7,217
Gross profits	473	718	1,600	1,613
Net income	(148)	36	575	317
Profit rate	(2.39)	58	8.57	4.60
Equity ratio	70.20	49.10	6.51	13.40
Federal corporate income tax	0	0	66	30
Undistributed profits tax			0	0
Federal capital stock tax	4	4	10	8
Federal excises	1	1	1	2
Federal-State payroll taxes			26	97
State income taxes	X	X	20	8
State sales taxes	0	0	0	0
Property taxes	39	34	30	30
State corporate taxes	3	3	16	14
Miscellaneous	1	1	3	2
Total taxes	48	43	172	191

CORN PRODUCTS REFINING COMPANY

Sales	46,470	50,378	58,420	62,364
Gross profits	19,109	16,361	22,052	15,283
Net income	11,698	10,263	14,157	9,973
Profit rate	10.36	9.33	12.92	9.67
Equity ratio	14.65	15.45	13.17	16.68
Federal corporate income tax	1,255	1,111	1,708	890
Undistributed profits tax				
Federal capital stock tax	4	252	124	127
Federal excises	1,599	1,330	67	82
Federal-State payroll taxes			89	252
State income taxes	31	35	30	52
State sales taxes	2	24	15	14
Property taxes	230	274	415	300
State corporate taxes	29	31	32	32
Miscellaneous				
Total taxes	3,150	3,057	2,480	1,749

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COSDEN PETROLEUM CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	3,153	3,954	5,181	5,862
Gross profits.....	254	595	1,081	1,116
Net income.....	(833)	(388)	26	175
Profit rate.....	(12.95)	(6.42)	.48	3.04
Equity ratio.....	.55	.47	.28	.86
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

CRANE COMPANY

	1934	1935	1936	1937
Sales.....	50,703	57,494	78,012	98,543
Gross profits.....	18,140	20,767	27,759	34,850
Net income.....	2,572	3,155	9,079	14,337
Profit rate.....	2.87	3.56	9.70	14.20
Equity ratio.....	5.18	5.02	4.15	4.74
Federal corporate income tax.....	206	297	1,052	1,703
Undistributed profits tax.....			353	353
Federal capital stock tax.....	54	92	86	93
Federal excises.....	11	9	2	28
Federal-State payroll taxes.....			193	752
State income taxes.....	4	10	18	90
State sales taxes.....	24	23	28	55
Property taxes.....	871	845	859	955
State corporate taxes.....	28	32	40	51
Miscellaneous.....	5	11	7	10
Total taxes.....	1,203	1,319	2,638	4,090

CREAMERIES OF AMERICA INC.

	1934	1935	1936	1937
Sales.....			8,512	9,828
Gross profits.....			3,296	3,800
Net income.....			480	623
Profit rate.....			7.13	15.52
Equity ratio.....			2.93	1.44
Federal corporate income tax.....			66	79
Undistributed profits tax.....			15	10
Federal capital stock tax.....			11	9
Federal excises.....			101	181
Federal-State payroll taxes.....			13	52
State income taxes.....			17	31
State sales taxes.....			18	20
Property taxes.....			53	56
State corporate taxes.....			2	1
Miscellaneous.....			1	20
Total taxes.....			297	459

--- Indicate no data available.

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CROWN CORK AND SEAL COMPANY, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	10,880	14,161	15,623	24,786
Gross profits.....	4,959	6,165	7,115	9,901
Net income.....	1,870	2,614	3,386	3,145
Profit rate.....	11.81	14.92	11.17	10.33
Equity ratio.....	2.20	1.71	2.86	1.48
Federal corporate income tax.....	211	236	443	572
Undistributed profits tax.....	X	X	135	238
Federal capital stock tax.....	25	51	68	78
Federal excises.....				
Federal-State payroll taxes.....	X	X		208
State income taxes.....	1	5	8	7
State sales taxes.....	1	2	2	1
Property taxes.....	52	61	53	84
State corporate taxes.....	1	3	4	2
Miscellaneous.....	8	10	42	4
Total taxes.....	299	368	800	1,194

CROWN CORK INTERNATIONAL CORPORATION

Sales.....	3,950	4,203	5,115	6,166
Gross profits.....	1,462	1,643	1,927	2,370
Net income.....	454	547	689	855
Profit rate.....	11.23	9.14	12.53	15.70
Equity ratio.....	5.42	4.99	2.61	1.88
Federal corporate income tax.....			4	
Undistributed profits tax.....				
Federal capital stock tax.....	4	4	4	3
Federal excises.....				
Federal-State payroll taxes.....				X
State income taxes.....				
State sales taxes.....				
Property taxes.....	X	X	X	X
State corporate taxes.....	2	2	2	2
Miscellaneous.....	1	1	5	5
Total taxes.....	7	7	15	10

CROWN DRUG COMPANY

Sales.....		7,624	8,241	8,563
Gross profits.....		2,290	2,492	2,620
Net income.....		222	319	273
Profit rate.....		14.44	19.59	16.29
Equity ratio.....		2.50	2.35	2.41
Federal corporate income tax.....		15	35	32
Undistributed profits tax.....				X
Federal capital stock tax.....		6	5	7
Federal excises.....				
Federal-State payroll taxes.....			9	30
State income taxes.....		1	4	3
State sales taxes.....		21		
Property taxes.....		14	16	19
State corporate taxes.....		23	26	22
Miscellaneous.....				
Total taxes.....		80	95	114

--- Indicate no data available.

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CROWN ZELLERBACK CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			49,814	50,790
Gross profits.....			20,878	21,289
Net income.....			7,531	8,502
Profit rate.....			7.74	8.57
Equity ratio.....			2.58	2.75
Federal corporate income tax.....				947
Undistributed profits tax.....				341
Federal capital stock tax.....				80
Federal excises.....				42
Federal-State payroll taxes.....				144
State income taxes.....				126
State sales taxes.....				117
Property taxes.....				593
State corporate taxes.....				74
Miscellaneous.....				4
Total taxes.....				2,468

CRUCIBLE STEEL CO. OF AMERICA

Sales.....	27,774	32,918	46,621	59,680
Gross profits.....	7,482	9,137	12,866	16,113
Net income.....	771	2,040	4,289	5,543
Profit rate.....	.74	2.00	4.17	5.33
Equity ratio.....	6.11	6.82	6.31	8.12
Federal corporate income tax.....	10	138	519	887
Undistributed profits tax.....			231	241
Federal capital stock tax.....	31	34	39	36
Federal excises.....				5
Federal-State payroll taxes.....			159	664
State income taxes.....	28	35	111	160
State sales taxes.....	14	9	11	20
Property taxes.....	663	638	673	708
State corporate taxes.....	22	67	131	130
Miscellaneous.....				
Total taxes.....	768	921	1,874	2,851

THE CRYSTAL TISSUE CO.

Sales.....	1,175	1,254	1,474	1,591
Gross profits.....	357	371	479	514
Net income.....	60	66	123	124
Profit rate.....	5.00	5.44	9.95	9.84
Equity ratio.....	22.50	23.20	13.70	18.57
Federal corporate income tax.....	8	10	17	18
Undistributed profits tax.....			4	3
Federal capital stock tax.....	1	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			3	11
State income taxes.....				
State sales taxes.....				
Property taxes.....	8	7	7	8
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	18	19	33	42

... indicate no data available.

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THE CUDAHY PACKING CO.

[\$'000's]

	1934	1935	1936	1937
Sales.....		180,218	201,606	222,222
Gross profits.....		43,360	47,114	47,749
Net income.....		2,498	3,360	(414)
Profit rate.....		3.79	5.06	(0.66)
Equity ratio.....		1.15	1.04	.83
Federal corporate income tax.....		93	345	24
Undistributed profits tax.....				7
Federal capital stock tax.....		36	32	35
Federal excises.....		82	88	82
Federal-State payroll taxes.....			142	523
State income taxes.....				
State sales taxes.....				
Property taxes.....		492	487	518
State corporate taxes.....				
Miscellaneous.....		91	105	146
Total taxes.....		794	1,199	1,335

THE CURTIS PUBLISHING CO.

Sales.....	31,290	31,829	35,515	36,154
Gross profits.....	14,371	14,532	16,879	16,052
Net income.....	6,575	6,166	7,487	4,878
Profit rate.....	14.09	13.51	16.37	11.29
Equity ratio.....	7.35	9.87	9.93	6.72
Federal corporate income tax.....	1,004	822	882	676
Undistributed profits tax.....				
Federal capital stock tax.....	180	127	56	93
Federal excises.....				
Federal-State payroll taxes.....			96	295
State income taxes.....	X	170	266	176
State sales taxes.....	X	1	1	X
Property taxes.....	183	176	151	151
State corporate taxes.....	70	191	114	703
Miscellaneous.....				X
Total taxes.....	1,437	1,487	1,566	2,094

CURTISS-WRIGHT CORPORATION

Sales.....				24,116
Gross profits.....				7,314
Net income.....				2,545
Profit rate.....				8.72
Equity ratio.....				6.11
Federal corporate income tax.....				408
Undistributed profits tax.....				111
Federal capital stock tax.....				23
Federal excises.....				1
Federal-State payroll taxes.....				312
State income taxes.....				5
State sales taxes.....				X
Property taxes.....				227
State corporate taxes.....				12
Miscellaneous.....				6
Total taxes.....				1,105

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X indicates less than \$1,000.

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CUTLER HAMMER, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	5,098	7,460	10,743	12,765
Gross profits.....	1,692	2,735	3,952	4,276
Net income.....	79	737	1,663	1,650
Profit rate.....	1.21	10.49	22.41	21.06
Equity ratio.....	16.47	9.66	9.84	7.64
Federal corporate income tax.....	8	105	226	235
Undistributed profits tax.....			45	67
Federal capital stock tax.....	5	5	15	16
Federal excises.....	2	3	3	4
Federal-State payroll taxes.....			80	195
State income taxes.....	4	26	75	67
State sales taxes.....	X	X	2	3
Property taxes.....	75	74	91	113
State corporate taxes.....	2	2	2	2
Miscellaneous.....				
Total taxes.....	96	215	539	702

DAVEGA STORES CORPORATION

Sales.....		9,243	10,424	10,778
Gross profits.....		2,101	3,014	2,839
Net income.....		223	507	104
Profit rate.....		10.09	12.61	3.09
Equity ratio.....		2.43	7.45	8.78
Federal corporate income tax.....		28	72	38
Undistributed profits tax.....			2	X
Federal capital stock tax.....		5	6	8
Federal excises.....	X	4	X	X
Federal-State payroll taxes.....			25	54
State income taxes.....		11	26	8
State sales taxes.....		6	5	6
Property taxes.....		8	X	2
State corporate taxes.....	X	X	X	2
Miscellaneous.....	X		1	X
Total taxes.....		62	137	118

THE DAYTON RUBBER MANUFACTURING COMPANY

Sales.....		4,482	7,122	8,274
Gross profits.....		1,445	2,304	2,709
Net income.....		74	632	514
Profit rate.....		3.82	20.12	15.20
Equity ratio.....		2.55	3.79	2.29
Federal corporate income tax.....		7	100	108
Undistributed profits tax.....				54
Federal capital stock tax.....		4	5	6
Federal excises.....		154	346	322
Federal-State payroll taxes.....			16	52
State income taxes.....				1
State sales taxes.....	X		2	X
Property taxes.....		25	27	31
State corporate taxes.....		5	5	5
Miscellaneous.....				
Total taxes.....		195	501	579

--- Indicate no data available

X Indicates less than \$1,000.

() Indicate deficit.

ALFRED DECKER & COHN, INC.

[\$000's]

	1934	1935	1936	1937
Sales.....		3,809	4,769	5,150
Gross profits.....		856	1,134	1,181
Net income.....		101	185	156
Profit rate.....		8.81	14.15	11.26
Equity ratio.....		1.59	1.54	1.22
Federal corporate income tax.....		11	23	38
Undistributed profits tax.....				
Federal capital stock tax.....		X	3	3
Federal excises.....				
Federal-State payroll taxes.....			16	57
State income taxes.....				1
State sales taxes.....				
Property taxes.....		18	22	27
State corporate taxes.....		X	X	1
Miscellaneous.....		X	X	
Total taxes.....		29	64	127

DEERE & COMPANY

Sales.....		50,880	71,527	100,380
Gross profits.....		24,537	35,420	48,980
Net income.....		9,476	16,941	25,393
Profit rate.....		14.64	23.32	31.83
Equity ratio.....		7.13	8.08	3.80
Federal corporate income tax.....		1,660	2,758	4,814
Undistributed profits tax.....				1,980
Federal capital stock tax.....		76	231	246
Federal excises.....		8	8	63
Federal-State payroll taxes.....			155	681
State income taxes.....		63	126	259
State sales taxes.....		11	16	24
Property taxes.....		479	503	547
State corporate taxes.....		8	20	31
Miscellaneous.....				
Total taxes.....		2,305	3,817	8,645

THE DEISEL-WEMMER-GILBERT CORP.

Sales.....	4,887	4,680	5,108	6,041
Gross profits.....	1,554	1,394	1,484	1,560
Net income.....	472	485	702	617
Profit rate.....	7.96	8.15	11.63	10.26
Equity ratio.....	28.07	18.55	35.25	16.70
Federal corporate income tax.....	72	59	75	63
Undistributed profits tax.....				
Federal capital stock tax.....	5	5	7	7
Federal excises.....				
Federal-State payroll taxes.....			14	47
State income taxes.....				
State sales taxes.....				
Property taxes.....	20	22	25	26
State corporate taxes.....	5	5	5	5
Miscellaneous.....				
Total taxes.....	102	91	126	148

--- indicate no data available.

X Indicates less than \$1,000.

() indicate deficit.

DETROIT MICHIGAN STOVE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		2,701	3,680	4,398
Gross profits.....		745	1,168	1,308
Net income.....		44	267	263
Profit rate.....		2.03	1,038	9.55
Equity ratio.....		6.29	3.21	3.68
Federal corporate income tax.....		1	32	43
Undistributed profits tax.....			9	
Federal capital stock tax.....		2		5
Federal excises.....				
Federal-State payroll taxes.....			8	38
State income taxes.....				
State sales taxes.....		1	1	3
Property taxes.....		46	48	47
State corporate taxes.....		7	4	6
Miscellaneous.....				
Total taxes.....		57	102	142

DETROIT STEEL CORP.

Sales.....		3,577	5,166	6,819
Gross profits.....		624	1,068	1,498
Net income.....		425	658	915
Profit rate.....		31.77	30.68	36.71
Equity ratio.....		2.17	2.05	5.82
Federal corporate income tax.....		70	102	138
Undistributed profits tax.....			70	78
Federal capital stock tax.....		5	9	11
Federal excises.....				
Federal-State payroll taxes.....			6	23
State income taxes.....				
State sales taxes.....				
Property taxes.....		20	29	39
State corporate taxes.....		2	3	5
Miscellaneous.....		1	X	1
Total taxes.....		98	219	295

DETROIT STEEL PRODUCTS COMPANY

Sales.....	4,743	6,482	9,463	10,560
Gross profits.....	1,277	1,641	2,796	3,089
Net income.....	220	389	1,041	937
Profit rate.....	6.23	9.46	22.41	18.94
Equity ratio.....	3.51	3.97	2.51	3.33
Federal corporate income tax.....	22	40	150	135
Undistributed profits tax.....				
Federal capital stock tax.....	4	6	12	11
Federal excises.....	5	9	12	9
Federal-State payroll taxes.....			26	94
State income taxes.....				2
State sales taxes.....	3	2	2	7
Property taxes.....	58	53	55	69
State corporate taxes.....	8	8	10	11
Miscellaneous.....				
Total taxes.....	100	118	267	338

- indicate no data available.

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() indicate deficit.

THE DIAMOND MATCH CO.

[\$000's]

	1934	1935	1936	1937
Sales	21,667	26,465	28,653	29,619
Gross profits	8,474	10,146	9,370	9,980
Net income	2,528	2,646	2,330	2,440
Profit rate	7.84	8.29	7.36	8.05
Equity ratio	23.13	21.87	24.24	26.10
Federal corporate income tax	397	370	274	328
Undistributed profits tax				
Federal capital stock tax	52	42	21	41
Federal excises	1,931	2,676	2,827	2,848
Federal-State payroll taxes			64	192
State income taxes	51	52	48	49
State sales taxes	45	30	13	12
Property taxes	161	241	230	240
State corporate taxes	20	31	17	20
Miscellaneous				
Total taxes	2,657	3,442	3,494	3,73

DISTILLED LIQUORS CORPORATION

Sales		801	1,172	1,024
Gross profits		108	283	175
Net income		19	(128)	(34)
Profit rate		1.27	(8.53)	(2.36)
Equity ratio		24.06	17.58	155.90
Federal corporate income tax		0	0	0
Undistributed profits tax			0	0
Federal capital stock tax		4	2	1
Federal excises		0	0	0
Federal-State payroll taxes			2	1
State income taxes		1	2	1
State sales taxes		0	X	0
Property taxes		9	8	8
State corporate taxes		0	X	X
Miscellaneous		1	X	
Total taxes		15	14	11

DODGE MANUFACTURING COMPANY

Sales			2,681	2,937
Gross profits			833	1,237
Net income			229	406
Profit rate			9.56	15.22
Equity ratio			13.01	8.10
Federal Corporate income tax			30	56
Undistributed profits tax				27
Federal capital stock tax			3	3
Federal excises				
Federal-State payroll taxes			8	33
State income taxes			X	X
State sales taxes			1	10
Property taxes			23	26
State corporate taxes			X	X
Miscellaneous				
Total taxes			65	155

... indicate no data available.

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() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

DOEHLEH DIE CASTING COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales	4,589	6,698	9,471	12,400
Gross profits	1,390	1,716	2,436	2,923
Net income	509	736	1,169	1,217
Profit rate	16.03	21.13	28.14	27.60
Equity ratio	8.35	5.26	3.98	3.54
Federal corporate income tax	37	88	161	162
Undistributed profits tax			69	48
Federal capital stock tax	6	8	13	13
Federal excises				
Federal-State payroll taxes			39	151
State income taxes	1	10	27	28
State sales taxes			1	3
Property taxes	32	28	32	38
State corporate taxes	1	8	14	15
Miscellaneous	X	X		
Total taxes	77	143	356	458

DOERNBECHER MANUFACTURING CO.

Sales			3,530	3,859
Gross profits			962	876
Net income			357	244
Profit rate			17.08	10.33
Equity ratio			1.89	13.54
Federal corporate income tax			50	28
Undistributed profits tax			11	16
Federal capital stock tax			4	8
Federal excises				
Federal-State payroll taxes			16	48
State income taxes			12	4
State sales taxes				
Property taxes			27	32
State corporate taxes			1	X
Miscellaneous				
Total taxes			121	136

DOUGLAS AIRCRAFT COMPANY INCORPORATED

Sales		7,392	7,868	20,950
Gross profits		1,994	2,098	4,173
Net income		1,512	1,176	1,632
Profit rate		28.39	11.40	15.20
Equity ratio		7.89	4.02	1.28
Federal corporate income tax		279	167	229
Undistributed profits tax				273
Federal capital stock tax		11	19	27
Federal excises				
Federal-State payroll taxes			64	312
State income taxes		14	71	54
State sales taxes			7	13
Property taxes		64	98	179
State corporate taxes				
Miscellaneous				X
Total taxes		368	426	1,087

---- indicate no data available.

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() indicate deficit.

THE DOW DRUG COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	3,958	3,890	4,167	4,104
Gross profits.....	1,407	1,363	1,433	1,401
Net income.....	153	94	115	(7)
Profit rate.....	11.73	7.15	8.69	(0.53)
Equity ratio.....	4.75	4.10	3.93	3.61
Federal corporate income tax.....	12	8	14	-----
Undistributed profits tax.....	-----	-----	X	-----
Federal capital stock tax.....	1	2	2	2
Federal excises.....	-----	-----	-----	-----
Federal-State payroll taxes.....	-----	-----	6	19
State income taxes.....	-----	-----	-----	-----
State sales taxes.....	-----	2	X	1
Property taxes.....	17	17	17	15
State corporate taxes.....	8	9	7	7
Miscellaneous.....	-----	-----	-----	-----
Total taxes.....	38	38	46	44

DRESSER MANUFACTURING COMPANY

Sales.....	-----	-----	3,916	6,262
Gross profits.....	-----	943	1,576	2,151
Net income.....	-----	155	464	546
Profit rate.....	-----	5.86	16.68	12.54
Equity ratio.....	-----	20.20	8.10	3.94
Federal corporate income tax.....	-----	24	47	116
Undistributed profits tax.....	-----	-----	-----	-----
Federal capital stock tax.....	-----	9	9	15
Federal excises.....	-----	-----	-----	-----
Federal-State payroll taxes.....	-----	-----	-----	65
State income taxes.....	-----	17	25	40
State sales taxes.....	-----	-----	-----	-----
Property taxes.....	-----	10	11	15
State corporate taxes.....	-----	-----	-----	-----
Miscellaneous.....	-----	-----	-----	-----
Total taxes.....	-----	60	92	251

DUPLAN SILK CORP.

Sales.....	9,315	10,179	12,058	10,172
Gross profits.....	1,852	1,876	2,435	1,866
Net income.....	500	509	902	413
Profit rate.....	8.60	8.77	14.74	6.85
Equity ratio.....	12.25	9.71	5.59	11.41
Federal corporate income tax.....	69	73	185	58
Undistributed profits tax.....	8	8	8	7
Federal capital stock tax.....	-----	1	1	2
Federal excises.....	2	1	-----	-----
Federal-State payroll taxes.....	-----	-----	69	108
State income taxes.....	X	16	41	12
State sales taxes.....	2	2	2	2
Property taxes.....	36	33	32	55
State corporate taxes.....	1	16	16	9
Miscellaneous.....	-----	14	-----	-----
Total taxes.....	118	163	354	253

--- indicate no data available.

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() indicate deficit.

(This corporation reports on fiscal year basis ending May 31.)

E. I. DUPONT DE NEMOURS AND COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	179,933	220,528	260,333	286,043
Gross profits.....	83,965	103,419	125,615	137,640
Net income.....	52,491	69,726	102,786	99,298
Profit rate.....	10.31	13.25	18.52	16.00
Equity ratio.....	25.03	22.16	16.50	17.75
Federal corporate income tax.....	4,820	6,581	9,627	9,943
Undistributed profits tax.....			2,148	1,267
Federal capital stock tax.....	423	549	718	687
Federal excises.....	10	4	4	5
Federal-State payroll taxes.....			859	2,777
State income taxes.....	335	796	1,394	675
State sales taxes.....	53	63	82	148
Property taxes.....	1,546	1,769	1,871	1,900
State corporate taxes.....				499
Miscellaneous.....	19	6	2	2
Total taxes.....	7,206	9,768	16,705	17,903

EAGLE PICHER LEAD CO.

Sales.....	11,802	16,041	20,883	24,691
Gross profits.....	2,859	3,912	4,906	5,278
Net income.....	(119)	698	843	470
Profit rate.....	(0.72)	6.11	7.24	4.15
Equity ratio.....	11.53	11.27	6.42	3.15
Federal corporate income tax.....		98	122	52
Undistributed profits tax.....			14	X
Federal capital stock tax.....	24	18	14	13
Federal excises.....				
Federal-State payroll taxes.....			53	141
State income taxes.....	1	20	16	14
State sales taxes.....	4	12	11	24
Property taxes.....	108	109	135	151
State corporate taxes.....	6	8	5	4
Miscellaneous.....	4	2	5	4
Total taxes.....	147	267	375	403

THE EARLY & DANIEL COMPANY¹

Sales.....	18,672	16,502	23,220	14,553
Gross profits.....	662	737	843	817
Net income.....	192	201	223	176
Profit rate.....	10.32	10.68	11.25	9.01
Equity ratio.....	74	1.05	1.57	3.78
Federal corporate income tax.....	21	25	81	22
Undistributed profits tax.....			X	1
Federal capital stock tax.....	1	2	3	3
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	42	50	150	77

¹ Fiscal year changed from calendar year, 5-31-36. 1936 data comprises 17 months ending 5-31-37.

..... indicate no data available.

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() indicate deficit.

EASON OIL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales		2,204	2,304	2,293
Gross profits		1,116	969	786
Net income		227	192	(5)
Profit rate		12.38	11.21	(0.29)
Equity ratio		1.27	1.94	5.17
Federal corporate income tax		9	19	
Undistributed profits tax				
Federal capital stock tax		2	3	3
Federal excises		X	X	X
Federal-State payroll taxes			2	11
State income taxes		4	9	
State sales taxes		25	17	10
Property taxes		16	16	18
State corporate taxes		4	5	3
Miscellaneous				
Total taxes		60	71	45

EASTMAN KODAK COMPANY

Sales	96,829	105,083	119,800	136,115
Gross profits	51,927	54,610	62,507	68,786
Net income	17,677	18,921	23,650	27,933
Profit rate	12.82	13.41	16.63	19.24
Equity ratio	9.13	8.15	7.61	6.00
Federal corporate income tax	2,407	2,354	3,514	3,817
Undistributed profits tax			211	431
Federal capital stock tax	212	292	387	311
Federal excises	208	274	440	688
Federal-State payroll taxes			333	1,255
State income taxes	338	479	692	784
State sales taxes	16	9	11	15
Property taxes	840	966	985	1,072
State corporate taxes	11	36	25	17
Miscellaneous				
Total taxes	4,032	4,410	6,598	8,390

EASY WASHING MACHINE CORPORATION

Sales	5,159	6,290	7,882	7,968
Gross profits	1,526	1,840	2,306	2,044
Net income	(18)	324	638	357
Profit rate	(0.43)	7.56	14.75	8.39
Equity ratio	24.57	8.68	9.04	7.87
Federal corporate income tax		39	81	38
Undistributed profits tax				
Federal capital stock tax	5	7	10	10
Federal excises	X			
Federal-State payroll taxes			20	62
State income taxes	2	11	4	21
State sales taxes	X	X	X	
Property taxes	21	20	23	25
State corporate taxes	5	3	5	3
Miscellaneous			X	X
Total taxes	33	80	143	159

... indicate no data available.

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() indicate deficit.

EDISON BROS. STORES, INC.

[\$'000's].

	1934	1935	1936	1937
Sales.....	14,125	16,296	19,690	23,765
Gross profits.....	2,434	2,741	3,511	4,101
Net income.....	664	722	1,011	903
Profit rate.....	32.85	29.22	35.11	19.44
Equity ratio.....	3.12	3.56	3.38	5.55
Federal corporate income tax.....	92	103	146	139
Undistributed profits tax.....			66	32
Federal capital stock tax.....	6	6	13	13
Federal excises.....				
Federal-State payroll taxes.....			34	100
State income taxes.....	6	7	9	7
State sales taxes.....	13	10	7	10
Property taxes.....	16	27	20	20
State corporate taxes.....	3	4	5	7
Miscellaneous.....				
Total taxes.....	136	157	300	328

EITINGON SCHILD COMPANY, INCORPORATED

	1934	1935	1936	1937
Sales.....	7,506	5,611	9,789	10,758
Gross profits.....	1,509	104	1,028	294
Net income.....	(347)	15	774	(200)
Profit rate.....	(6.90)	.35		(5.36)
Equity ratio.....	.80	1.78	3.28	.94
Federal corporate income tax.....	13		151	
Undistributed profits tax.....				
Federal capital stock tax.....	5	4	20	15
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			2	5
State income taxes.....	2	3	3	20
State sales taxes.....	7	7	7	7
Property taxes.....	4	22	7	2
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	31	36	190	49

EL DORADO OIL WORKS

	1934	1935	1936	1937
Sales.....	2,313	3,616	2,873	8,739
Gross profits.....	481	636	232	560
Net income.....	327	430	110	357
Profit rate.....	13.03	16.59	4.42	14.05
Equity ratio.....	13.06	15.56	16.51	1.34
Federal corporate income tax.....	44	65	23	43
Undistributed profits tax.....			X	X
Federal capital stock tax.....	3	3	4	3
Federal excises.....	253	807	113	64
Federal-State payroll taxes.....			3	13
State income taxes.....	5	9	11	4
State sales taxes.....		X	X	X
Property taxes.....	14	15	15	22
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	319	899	169	149

... indicate no data available

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() indicate deficit.

ELECTRICAL PRODUCTS CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	2,029	1,966	3,244	4,053
Gross profits.....	471	431	710	840
Net income.....	43	60	216	334
Profit rate.....	5.79	8.23	30.76	44.14
Equity ratio.....	2.68	2.51	2.44	2.97
Federal corporate income tax.....	5	11	18	30
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	8
State income taxes.....				
State sales taxes.....				
Property taxes.....	4	4	4	4
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	10	16	25	43

THE ELECTRIC AUTO-LITE CO.

Sales.....	22,093	37,933	50,821	60,832
Gross profits.....	5,710	9,069	12,163	13,809
Net income.....	1,332	3,440	5,552	5,552
Profit rate.....	7.30	16.96	25.95	20.35
Equity ratio.....	6.02	3.64	2.67	1.13
Federal corporate income tax.....		234	428	524
Undistributed profits tax.....				
Federal capital stock tax.....	52	45	80	82
Federal excises.....	14	18	23	48
Federal-State payroll taxes.....			116	449
State income taxes.....				26
State sales taxes.....				3
Property taxes.....	47	48	74	110
State corporate taxes.....	13	21	45	13
Miscellaneous.....	X		X	13
Total taxes.....	126	366	766	1,268

ELECTRIC BOAT COMPANY

Sales.....	4,731	7,205	7,890	9,061
Gross profits.....	1,033	1,717	1,608	2,003
Net income.....	349	438	415	596
Profit rate.....	4.26	7.13	6.85	9.75
Equity ratio.....	12.39	6.22	4.12	2.86
Federal corporate income tax.....		8	52	87
Undistributed profits tax.....				
Federal capital stock tax.....	5	5	5	4
Federal excises.....				
Federal-State payroll taxes.....			39	127
State income taxes.....	X	X	2	5
State sales taxes.....				
Property taxes.....	65	62	65	68
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	70	75	163	294

--- indicate no data available.

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() indicate deficit.

ELECTRIC HOUSEHOLD UTILITIES CORP.

[\$000's]

	1934	1935	1936	1937
Sales	5,345	6,366	6,164	5,321
Gross profits	1,906	1,718	1,530	1,557
Net income	559	407	304	(294)
Profit rate	11.92	8.96	6.86	(7.15)
Equity ratio	6.41	6.53	7.37	9.83
Federal corporate income tax	76	64	21	18
Undistributed profits tax	8	8	6	6
Federal capital stock tax				
Federal excises			18	48
Federal-State payroll taxes	1	1	1	X
State income taxes	4	5	6	5
State sales taxes	39	43	44	47
Property taxes	4	4	3	3
State corporate taxes				
Miscellaneous				
Total taxes	132	125	99	127

ELECTRIC PRODUCTS CORP.

Sales			3,244	4,053
Gross profits			710	840
Net income			216	334
Profit rate			30.76	44.14
Equity ratio			2.44	2.97
Federal corporate income tax			22	27
Undistributed profits tax				
Federal capital stock tax			6	5
Federal excises				
Federal-State payroll taxes			9	27
State income taxes			22	9
State sales taxes				
Property taxes			20	19
State corporate taxes				
Miscellaneous				
Total taxes			79	87

THE ELECTRIC STORAGE BATTERY CO.

Sales	19,237	21,527	25,452	27,057
Gross profits	6,948	7,388	8,524	8,179
Net income	2,245	2,660	3,219	2,483
Profit rate	6.38	7.52	8.90	6.92
Equity ratio	25.86	21.10	20.00	16.17
Federal corporate income tax	241	286	350	293
Undistributed profits tax			X	
Federal capital stock tax	35	51	45	45
Federal excises	90	166	190	217
Federal-State payroll taxes			72	216
State income taxes			57	33
State sales taxes	X 2	X 63	11	11
Property taxes	213	204	206	210
State corporate taxes	10	85	163	130
Miscellaneous				
Total taxes	591	855	1,094	1,155

--- indicate no data available.

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() indicate deficit.

ELECTROGRAPHIC CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....		3,534	3,993	4,301
Gross profits.....		1,524	1,757	1,935
Net income.....		375	340	436
Profit rate.....		22.03	20.45	26.40
Equity ratio.....		11.01	8.92	7.06
Federal corporate income tax.....		48	65	67
Undistributed profits tax.....			3	5
Federal capital stock tax.....		5	6	6
Federal excises.....				
Federal-State payroll taxes.....			19	71
State income taxes.....		15	8	16
State sales taxes.....		1	3	2
Property taxes.....		4	4	5
State corporate taxes.....		X	X	X
Miscellaneous.....				
Total taxes.....		73	108	172

EMPIRE GAS AND FUEL CO., PITTSBURGH

Sales.....		68,457	77,801	88,609
Gross profits.....		39,552	44,314	50,006
Net income.....		17,402	15,433	17,456
Profit rate.....		4.57	3.96	4.37
Equity ratio.....		.97	.87	.85
Federal corporate income tax.....	0	0	0	0
Undistributed profits tax.....			592	1,073
Federal capital stock tax.....	6	15	18	15
Federal excises.....	0	0	0	X
Federal-State payroll taxes.....			X	X
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....	11	4	4	4
Miscellaneous.....	0	0	0	X
Total taxes.....	17	19	614	1,692

THE EMPORIUM CAPWELL COMPANY

Sales.....	18,014	19,602	22,124	22,606
Gross profits.....	6,669	7,363	8,432	8,843
Net income.....	815	1,166	1,507	1,462
Profit rate.....	4.27	6.11	7.49	7.67
Equity ratio.....	.92	1.03	1.44	1.42
Federal corporate income tax.....	102	113	100	270
Undistributed profits tax.....	X	X	3	34
Federal capital stock tax.....	9	16	26	29
Federal excises.....				
Federal-State payroll taxes.....	X	X	52	156
State income taxes.....	12	14	34	38
State sales taxes.....				
Property taxes.....	321	335	322	334
State corporate taxes.....	2	2	2	2
Miscellaneous.....	5	4		X
Total taxes.....	451	484	539	863

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

EX-CELLO CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	2,659	3,452	4,259	5,385
Gross profits.....	770	1,070	1,282	1,947
Net income.....	164	377	468	799
Profit rate.....	7.75	15.69	18.24	28.29
Equity ratio.....	7.94	9.80	8.26	4.16
Federal corporate income tax.....	13	45	59	115
Undistributed profits tax.....			1	29
Federal capital stock tax.....	5	6	9	8
Federal excises.....				
Federal-State payroll taxes.....			23	81
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	33	30	34	42
State corporate taxes.....	5	4	6	6
Miscellaneous.....				
Total taxes.....	56	85	132	281

EXETER OIL COMPANY, LTD.

	1934	1935	1936	1937
Sales.....	1,379	955	1,383	2,010
Gross profits.....	225	143	210	476
Net income.....	(1)	(10)	(1)	158
Profit rate.....	(0.10)	(1.33)	(0.07)	16.94
Equity ratio.....	2.78	2.33	3.15	3.83
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

FAIRBANKS COMPANY

	1934	1935	1936	1937
Sales.....	1,036	1,193	1,491	1,747
Gross profits.....	287	329	438	602
Net income.....	(80)	(50)	55	141
Profit rate.....	(4.22)	(2.84)	3.12	8.09
Equity ratio.....	2.42	2.40	2.61	3.50
Federal corporate income tax.....			6	25
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	2	2
Federal excises.....				
Federal-State payroll taxes.....			5	17
State income taxes.....				5
State sales taxes.....	X	1	X	2
Property taxes.....	16	15	16	17
State corporate taxes.....	8	8	8	5
Miscellaneous.....				
Total taxes.....	25	25	37	73

--- indicate no data available.

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() indicate deficit.

FAIRCHILD AVIATION CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			1,118	1,412
Gross profits.....			522	682
Net income.....			139	192
Profit rate.....			6.70	25.95
Equity ratio.....			3.27	1.04
Federal corporate income tax.....			24	29
Undistributed profits tax.....			3	X
Federal capital stock tax.....			3	2
Federal excises.....				X
Federal-State payroll taxes.....			5	18
State income taxes.....			1	6
State sales taxes.....				
Property taxes.....			1	1
State corporate taxes.....				
Miscellaneous.....			1	1
Total taxes.....			38	57

FANNY FARMER CANDY SHOPS, INC.

	1934	1935	1936	1937
Sales.....	4,185	4,818	5,683	6,640
Gross profits.....	2,278	2,674	3,189	3,678
Net income.....	512	626	818	1,079
Profit rate.....	38.45	38.22	43.47	54.03
Equity ratio.....	11.85	10.88	6.13	6.32
Federal corporate income tax.....	82	109	179	226
Undistributed profits tax.....			62	24
Federal capital stock tax.....	3	2	4	5
Federal excises.....				
Federal-State payroll taxes.....			32	51
State income taxes.....	19	25	31	44
State sales taxes.....				
Property taxes.....	4	6	8	11
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	108	142	316	361

FANSTEEL METALLURGICAL CORPORATION

	1934	1935	1936	1937
Sales.....	565	829	1,053	1,307
Gross profits.....	197	296	430	484
Net income.....	11	115	210	166
Profit rate.....	0.48	5.08	8.32	6.45
Equity ratio.....	4.98	6.01	7.81	9.57
Federal corporate income tax.....		10	25	26
Undistributed profits tax.....				
Federal capital stock tax.....	1	3	3	4
Federal excises.....				
Federal-State payroll taxes.....			4	16
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	4	3	4	5
State corporate taxes.....	1	1	2	1
Miscellaneous.....	X	X		
Total taxes.....	6	17	38	52

--- indicate no data available.

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() indicate deficit.

FEDERAL SCREW WORKS

[\$000's]

	1934	1935	1936	1937
Sales.....			1,777	2,296
Gross profits.....	365	335	410	564
Net income.....	(9)	(105)	74	193
Profit rate.....	(0.60)	(7.54)	5.03	11.86
Equity ratio.....	(.12)	(.18)	(.14)	(.06)
Federal corporate income tax.....	4	0	4	22
Undistributed profits tax.....				
Federal capital stock tax.....	2	1	2	2
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			7	28
State income taxes.....				
State sales taxes.....				
Property taxes.....	21	19	17	21
State corporate taxes.....	1	2	1	X
Miscellaneous.....	1	X	X	X
Total taxes.....	29	22	31	73

FERRO ENAMEL CORPORATION

Sales.....			3,554	6,184
Gross profits.....	886	1,013	1,441	2,456
Net income.....	241	204	528	771
Profit rate.....	28.55	20.29	33.49	28.99
Equity ratio.....	2.72	1.85	.95	4.58
Federal corporate income tax.....	33	37	74	72
Undistributed profits tax.....			X	
Federal capital stock tax.....	3	4	6	6
Federal excises.....				
Federal-State payroll taxes.....			6	26
State income taxes.....				
State sales taxes.....				
Property taxes.....	4	5	5	6
State corporate taxes.....	1	1	1	2
Miscellaneous.....				
Total taxes.....	41	47	92	112

THE FIRESTONE TIRE & RUBBER CO.¹

Sales.....		121,671	136,702	156,823
Gross profits.....		49,064	51,504	61,997
Net income.....		8,131	12,150	12,567
Profit rate.....		6.94	10.08	10.41
Equity ratio.....		2.85	2.75	1.97
Federal corporate income tax.....		1,088	1,512	1,502
Undistributed profits tax.....				36
Federal capital stock tax.....		84	120	150
Federal excises.....		4,694	5,670	5,530
Federal-State payroll taxes.....			313	1,004
State income taxes.....		20	28	42
State sales taxes.....				
Property taxes.....		2,498	973	1,108
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		8,384	8,616	9,372

¹ Fiscal year ended Oct. 31.

--- indicate no data available.

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() indicate deficit.

FIRST NATIONAL STORES INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	111,323	119,575	120,683	124,295
Gross profits.....	21,661	22,446	23,064	22,892
Net income.....	4,001	3,710	4,352	3,213
Profit rate.....	17.73	15.87	18.26	13.73
Equity ratio.....	5.10	4.93	4.59	4.84
Federal corporate income tax.....	694	576	526	618
Undistributed profits tax.....				15
Federal capital stock tax.....	48	47	58	60
Federal excises.....	11	1		
Federal-State payroll taxes.....			140	454
State income taxes.....	146	163	161	150
State sales taxes.....	84	20	126	103
Property taxes.....	246	261	265	278
State corporate taxes.....	53	67	71	58
Miscellaneous.....				
Total taxes.....	1,282	1,135	1,347	1,736

FLINTKOTE COMPANY

Sales.....		11,145	13,676	15,164
Gross profits.....		4,223	4,495	4,845
Net income.....		1,659	1,560	1,393
Profit rate.....		20.37	18.50	16.04
Equity ratio.....		7.58	6.93	7.14
Federal corporate income tax.....		157	155	128
Undistributed profits tax.....				
Federal capital stock tax.....		20	30	28
Federal excises.....		1	1	
Federal-State payroll taxes.....			32	104
State income taxes.....		69	49	37
State sales taxes.....		3	3	5
Property taxes.....		73	86	97
State corporate taxes.....		17	16	13
Miscellaneous.....		1	X	1
Total taxes.....		341	372	413

FLORENCE STOVE COMPANY

Sales.....		8,282	12,664	12,726
Gross profits.....		2,695	3,885	3,703
Net income.....		1,132	1,728	1,534
Profit rate.....		28.38	31.08	26.44
Equity ratio.....		3.51	5.77	1.48
Federal corporate income tax.....		216	301	245
Undistributed profits tax.....			35	31
Federal capital stock tax.....		4	19	20
Federal excises.....				
Federal-State payroll taxes.....			21	81
State income taxes.....		1	1	1
State sales taxes.....		1	1	X
Property taxes.....		15	12	15
State corporate taxes.....		21	55	73
Miscellaneous.....				
Total taxes.....		258	445	466

.... indicate no data available.

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() indicate deficit.

FLORSHEIM SHOE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		7,053	8,416	9,693
Gross profits.....		2,508	2,897	3,036
Net income.....		678	1,175	1,084
Profit rate.....		7.97	13.40	12.18
Equity ratio.....		24.32	18.21	17.93
Federal corporate income tax.....		87	134	147
Undistributed profits tax.....				7
Federal capital stock tax.....		8	15	15
Federal excises.....				
Federal-State payroll taxes.....			24	83
State income taxes.....				
State sales taxes.....				
Property taxes.....		18	73	66
State corporate taxes.....		1	1	1
Miscellaneous.....				
Total taxes.....		114	247	219

FOOD MACHINERY CORPORATION

Sales.....		7,528	8,890	11,964
Gross profits.....		3,351	3,652	4,870
Net income.....		1,288	1,598	2,316
Profit rate.....		20.07	20.08	18.98
Equity ratio.....		4.43	6.03	9.04
Federal corporate income tax.....		177	230	355
Undistributed profits tax.....				30
Federal capital stock tax.....		21	16	24
Federal excises.....				
Federal-State payroll taxes.....			20	81
State income taxes.....		11	25	47
State sales taxes.....		55	79	114
Property taxes.....		26	31	39
State corporate taxes.....		5	5	6
Miscellaneous.....		1	2	5
Total taxes.....		296	408	701

FORMICA INSULATION COMPANY

Sales.....	1,576	2,096	2,620	3,476
Gross profits.....	391	587	692	789
Net income.....	26	176	234	292
Profit rate.....	1.83	12.06	15.40	18.05
Equity ratio.....	23.79	11.32	8.61	10.57
Federal corporate income tax.....	2	21	32	50
Undistributed profits tax.....				
Federal capital stock tax.....	2	3	2	3
Federal excises.....				
Federal-State payroll taxes.....			9	38
State income taxes.....				
State sales taxes.....				
Property taxes.....	8	9	9	11
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	13	34	53	103

... indicate no data available.

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() indicate deficit.

FORT PITT BREWING COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		1,866	1,531	1,367
Gross profits.....		1,282	1,037	773
Net income.....		80	72	(89)
Profit rate.....		7.49	6.59	(8.24)
Equity ratio.....		3.05	4.68	9.06
Federal corporate income tax.....		11	7	1
Undistributed profits tax.....				
Federal capital stock tax.....		4	2	2
Federal excises.....		582	453	430
Federal-State payroll taxes.....			2	2
State income taxes.....			3	
State sales taxes.....				
Property taxes.....		9	9	11
State corporate taxes.....		155	119	122
Miscellaneous.....				
Total taxes.....		761	595	568

FOSTORIA PRESSED STEEL CORP.

Sales.....	413	399	441	522
Gross profits.....	136	136	121	133
Net income.....	(12)	(8)	(26)	(7)
Profit rate.....	2.53	(1.92)	(6.34)	(2.06)
Equity ratio.....	39.74	28.03	8.83	12.11
Federal corporate income tax.....	X	0	0	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	X	X	X	X
Federal excises.....	7	6	5	5
Federal-State payroll taxes.....			1	3
State income taxes.....				
State sales taxes.....				
Property taxes.....	2	2	2	2
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	9	8	8	10

FRANKENMUTH BREWING COMPANY

Sales.....		940	1,219	1,866
Gross profits.....		683	919	1,339
Net income.....		176	147	177
Profit rate.....		53.40	19.50	22.62
Equity ratio.....		4.36	5.97	6.81
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

--- indicate no data available.

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() indicate deficit.

FRANKLIN SIMON AND COMPANY INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	10, 225	10, 102	9, 774	8, 683
Gross profits.....	2, 831	2, 710	2, 512	2, 021
Net income.....	(176)	(83)	(265)	(95)
Profit rate.....	(2. 16)	(1. 05)	(3. 56)	(1. 30)
Equity ratio.....	3. 78	3. 61	3. 44	3. 26
Federal corporate income tax.....		2	1	1
Undistributed profits tax.....				
Federal capital stock tax.....	3	5	5	4
Federal excises.....	1	X	X	X
Federal-State payroll taxes.....			27	56
State income taxes.....	6	4	4	5
State sales taxes.....	5	8	11	7
Property taxes.....	124	127	120	118
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	1	1	X
Total taxes.....	139	147	169	191

FREDERICK STEARNS & CO.¹

Sales.....	4, 350	4, 729	4, 954	5, 024
Gross profits.....	2, 114	2, 284	2, 548	2, 682
Net income.....	174	338	464	522
Profit rate.....	3. 08	5. 95	8. 07	8. 93
Equity ratio.....	26. 05	25. 07	21. 98	19. 38
Federal corporate income tax.....	4	29	53	60
Undistributed profits tax.....			1	10
Federal capital stock tax.....	3	4	6	5
Federal excises.....				
Federal-State payroll taxes.....			12	39
State income taxes.....	X	1	1	2
State sales taxes.....	X			X
Property taxes.....	76	58	65	79
State corporate taxes.....	10	11	11	11
Miscellaneous.....				
Total taxes.....	93	103	149	206

¹ Consolidated report of Frederick Stearns & Co. and Nyal Company.

FULLER MANUFACTURING COMPANY

Sales.....				2, 908
Gross profits.....				514
Net income.....				162
Profit rate.....				15. 00
Equity ratio.....				5. 02
Federal corporate income tax.....				20
Undistributed profits tax.....				9
Federal capital stock tax.....				7
Federal excises.....				1
Federal-State payroll taxes.....				38
State income taxes.....				
State sales taxes.....				
Property taxes.....				25
State corporate taxes.....				3
Miscellaneous.....				
Total taxes.....				103

..... indicate no data available.

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() indicate deficit.

ROBERT GAIR COMPANY, INC.

[\$000's]

	1934	1935	1936	1937
Sales.....			19,002	21,655
Gross profits.....			4,991	5,559
Net income.....			1,271	1,202
Profit rate.....			7.71	7.24
Equity ratio.....			1.63	1.18
Federal corporate income tax.....			100	134
Undistributed profits tax.....			0	50
Federal capital stock tax.....			14	14
Federal excises.....			0	0
Federal-State payroll taxes.....			42	153
State income taxes.....			23	29
State sales taxes.....			X	5
Property taxes.....			145	130
State corporate taxes.....			20	18
Miscellaneous.....			0	0
Total taxes.....			344	533

GANNETT COMPANY, INCORPORATED

Sales.....		5,843	6,864	7,202
Gross profits.....		2,095	2,442	2,534
Net income.....		1,252	1,331	1,306
Profit rate.....		9.92	10.20	10.25
Equity ratio.....		3.73	3.96	4.68
Federal corporate income tax.....		75	146	155
Undistributed profits tax.....			87	94
Federal capital stock tax.....		13	15	17
Federal excises.....				
Federal-State payroll taxes.....			30	92
State income taxes.....		35	48	83
State sales taxes.....				
Property taxes.....		52	50	53
State corporate taxes.....				
Miscellaneous.....		5	1	1
Total taxes.....		180	377	495

GAR WOOD INDUSTRIES, INCORPORATED

Sales.....		6,979	9,426	9,313
Gross profits.....		2,436	3,416	3,088
Net income.....		867	1,240	642
Profit rate.....		20.18	26.20	12.70
Equity ratio.....		4.20	2.97	3.08
Federal corporate income tax.....	8	152	158	45
Undistributed profits tax.....			77	12
Federal capital stock tax.....	3	7	9	8
Federal excises.....				
Federal-State payroll taxes.....			28	92
State income taxes.....	X	1	7	12
State sales taxes.....				
Property taxes.....	40	40	46	60
State corporate taxes.....	6	5	8	9
Miscellaneous.....	1	X		
Total taxes.....	58	205	333	238

..... indicate no data available.
 X indicates less than \$1,000 /

GAYLORD CONTAINER CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....				6,774
Gross profits.....				2,949
Net income.....				1,091
Profit rate.....				9.35
Equity ratio.....				9.35
Federal corporate income tax.....				344
Undistributed profits tax.....				240
Federal capital stock tax.....				49
Federal excises.....			X	X
Federal-State payroll taxes.....				108
State income taxes.....				58
State sales taxes.....			X	X
Property taxes.....				247
State corporate taxes.....				23
Miscellaneous.....				34
Total taxes.....				1,103

GELLMAN MFG. CO.

Sales.....			208	241
Gross profits.....			125	112
Net income.....			32	(17)
Profit rate.....			10.44	(3.05)
Equity ratio.....			9.22	32.32
Federal corporate income tax.....			4	
Undistributed profits tax.....			X	
Federal capital stock tax.....			X	1
Federal excises.....				
Federal-State payroll taxes.....			1	3
State income taxes.....				
State sales taxes.....				
Property taxes.....			X	X
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			5	4

GEMMER MANUFACTURING COMPANY

Sales.....	1,717	2,375	3,143	4,477
Gross profits.....	343	517	787	1,087
Net income.....	4	259	473	605
Profit rate.....	.17	10.13	19.46	24.91
Equity ratio.....	4.81	4.77	3.65	5.47
Federal corporate income tax.....	1	29	52	85
Undistributed profits tax.....			X	3
Federal capital stock tax.....	2	2	4	4
Federal excises.....	X	X		X
Federal-State payroll taxes.....			9	39
State income taxes.....				
State sales taxes.....				
Property taxes.....	25	26	31	39
State corporate taxes.....	4	5	6	5
Miscellaneous.....				
Total.....	32	62	102	175

--- indicate no data available.

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() indicate deficit.

GENERAL ALLOYS COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	364	449	601	881
Gross profits.....	143	149	223	348
Net income.....	28	27	49	101
Profit rate.....	7.21	6.58	11.03	20.65
Equity ratio.....	15.90	13.14	16.16	7.13
Federal corporate income tax.....	4	1	3	11
Undistributed profits tax.....			6	8
Federal capital stock tax.....	X	X	1	1
Federal excises.....		X		
Federal-State payroll taxes.....			2	8
State income taxes.....	1	X	1	3
State sales taxes.....			X	X
Property taxes.....	3	3	3	3
State corporate taxes.....				
Miscellaneous.....			1	
Total taxes.....	8	4	16	34

GENERAL BRONZE CORP.

Sales.....	828	1,849	1,161	2,474
Gross profits.....	(51)	295	138	531
Net income.....	(341)	182	(225)	206
Profit rate.....	(10.09)	5.33	(7.36)	6.78
Equity ratio.....	.87	.94	.73	.84
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	2	1	2	1
Federal excises.....				
Federal-State payroll taxes.....			9	36
State income taxes.....	2	2	2	2
State sales taxes.....	X	2	2	7
Property taxes.....	17	15	17	19
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	22	21	33	66

GENERAL CANDY CORPORATION

Sales.....	3,920	4,143	4,962	5,758
Gross profits.....	973	1,038	1,384	1,503
Net income.....	216	278	420	325
Profit rate.....	17.34	27.96	40.15	30.89
Equity ratio.....	10.69	12.12	4.42	5.56
Federal corporate income tax.....	21	33	62	32
Undistributed profits tax.....				
Federal capital stock tax.....	1	4	3	3
Federal excises.....	16			
Federal-State payroll taxes.....			8	27
State income taxes.....				
State sales taxes.....				
Property taxes.....	7	7	9	10
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	45	44	82	72

--- indicate no data available.

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GENERAL CIGAR CO., INC.

[\$000's]

	1934	1935	1936	1937
Sales	23,674	22,243	21,650	21,724
Gross profits	11,677	10,441	9,556	9,412
Net income	2,739	2,409	2,109	1,955
Profit rate	11.47	9.96	8.88	8.27
Equity ratio	7.72	16.19	21.32	23.75
Federal corporate income tax	350	305	304	280
Undistributed profits tax	30	27	31	31
Federal capital stock tax	1,834	1,675	1,227	1,243
Federal excises			64	193
Federal-State payroll taxes	3	11	38	47
State income taxes			1	1
State sales taxes	X	X		
Property taxes	80	100	103	85
State corporate taxes	2	3	30	33
Miscellaneous				
Total taxes	2,299	2,121	1,798	1,913

GENERAL ELECTRIC COMPANY

Sales	225,663	277,189	354,059	468,027
Gross profits	85,132	104,465	136,321	179,885
Net income	24,052	38,014	54,609	78,207
Profit rate	6.56	12.01	17.44	25.68
Equity ratio	9.48	6.91	5.48	4.57
Federal corporate income tax	0	4,600	7,280	10,690
Undistributed profits tax			300	570
Federal capital stock tax	891	674	720	740
Federal excises	1,079	1,312	1,708	1,930
Federal-State payroll taxes			1,076	4,268
State income taxes		248	1,089	1,486
State sales taxes	180	47	179	309
Property taxes	2,163	2,056	1,952	2,060
State corporate taxes	432	820	721	1,139
Miscellaneous	13	4	4	1
Total taxes	4,758	9,761	15,029	23,193

GENERAL FOODS CORPORATION

Sales	102,999	107,417	122,462	133,127
Gross profits	42,863	44,304	48,293	43,785
Net income	14,709	15,315	18,944	13,185
Profit rate	25.49	25.37	30.05	21.95
Equity ratio	10.16	8.89	6.03	3.97
Federal corporate income tax	1,954	2,049	2,709	1,968
Undistributed profits tax			269	24
Federal capital stock tax	322	331	259	233
Federal excises	19	1	2	2
Federal-State payroll taxes			136	443
State income taxes	162	156	118	120
State sales taxes	2	2	4	5
Property taxes	467	399	432	488
State corporate taxes	129	115	160	239
Miscellaneous	1,916	587	99	145
Total taxes	4,971	3,640	4,188	3,667

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

GENERAL METALS CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	1,044	1,245	1,806	2,655
Gross profits.....	272	369	511	747
Net income.....	56	195	329	486
Profit rate.....	3.93	12.77	20.52	29.06
Equity ratio.....	33.48	19.43	15.51	8.76
Federal corporate income tax.....	2	21	39	76
Undistributed profits tax.....			1	5
Federal capital stock tax.....	1	5	4	4
Federal excises.....				
Federal-State payroll taxes.....			7	29
State income taxes.....	X	1	6	11
State sales taxes.....				3
Property taxes.....	22	21	20	23
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	25	48	77	151

GENERAL MILLS, INC.

Sales.....	143,074	147,380	159,980	152,673
Gross profits.....	24,050	24,761	28,497	27,968
Net income.....	5,312	4,592	5,857	4,874
Profit rate.....	10.62	9.06	11.34	9.30
Equity ratio.....	8.05	11.15	9.43	12.66
Federal corporate income tax.....	879	765	1,067	606
Undistributed profits tax.....			315	11
Federal capital stock tax.....	99	128	234	71
Federal excises.....				
Federal-State payroll taxes.....		53	241	468
State income taxes.....				
State sales taxes.....	741	884	874	776
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	1,719	1,830	2,731	1,934

GENERAL MOTORS CORPORATION

Sales.....	882,094	1,182,100	1,468,245	1,635,141
Gross profits.....	303,469	408,327	505,260	519,308
Net income.....	110,353	196,896	282,313	246,853
Profit rate.....	12.62	21.11	29.01	24.82
Equity ratio.....	9.57	6.42	5.57	6.81
Federal corporate income tax.....	12,787	27,197	36,925	36,604
Undistributed profits tax.....			2,395	5,737
Federal capital stock tax.....	874	1,657	2,801	2,799
Federal excises.....	16,230	22,860	28,749	26,907
Federal-State payroll taxes.....			3,096	11,715
State income taxes.....	510	856	1,191	1,223
State sales taxes.....	801	168	706	632
Property taxes.....	5,222	5,230	5,433	6,153
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	36,424	57,968	81,296	91,770

... indicate no data available.

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() indicate deficit.

GENERAL PAINT CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....		3,291	4,093	4,994
Gross profits.....		1,240	1,547	1,876
Net income.....		365	555	635
Profit rate.....		14.87	20.11	21.54
Equity ratio.....		12.32	9.70	7.84
Federal corporate income tax.....		37	69	100
Undistributed profits tax.....			0	0
Federal capital stock tax.....		2	5	5
Federal excises.....		0	0	0
Federal-State payroll taxes.....			8	21
State income taxes.....		1	7	14
State sales taxes.....	X		1	2
Property taxes.....		34	32	32
State corporate taxes.....		1	1	1
Miscellaneous.....	X		1	1
Total taxes.....		75	124	176

GENERAL PRINTING INK CORPORATION

Sales.....	7,539	8,610	10,135	11,102
Gross profits.....	3,480	3,887	4,587	4,991
Net income.....	890	1,147	1,488	1,526
Profit rate.....	15.89	19.98	25.64	25.43
Equity ratio.....	9.86	9.44	6.89	7.91
Federal corporate income tax.....	106	97	190	195
Undistributed profits tax.....			2	18
Federal capital stock tax.....	8	17	13	13
Federal excises.....				
Federal-State payroll taxes.....			31	91
State income taxes.....	9	22	26	28
State sales taxes.....				
Property taxes.....	40	42	41	44
State corporate taxes.....				
Miscellaneous.....	1	X		
Total taxes.....	164	178	303	359

GENERAL RY. SIGNAL CO.

Sales.....			3,723	5,367
Gross profits.....	677	1,990	1,287	2,101
Net income.....	(342)	820	210	748
Profit rate.....	(2.96)	6.95	1.78	6.25
Equity ratio.....	27.96	17.93	15.70	14.83
Federal corporate income tax.....		107	10	102
Undistributed profits tax.....				
Federal capital stock tax.....	13	12	13	13
Federal excises.....				
Federal-State payroll taxes.....			16	68
State income taxes.....			49	2
State sales taxes.....	2			3
Property taxes.....	27	31	33	34
State corporate taxes.....	13	14	X	18
Miscellaneous.....		3		X
Total taxes.....	55	167	121	240

GENERAL STEEL CASTINGS CORPORATION

[\$'000's]

	1934	1935	1936	1937
Sales.....	4,903	2,425	4,533	14,641
Gross profits.....	1,086	340	1,026	4,332
Net income.....	(772)	(1,573)	(1,195)	1,432
Profit rate.....	(2.28)	(5.01)	(4.05)	4.78
Equity ratio.....	.96	.82	.70	.72
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	19	17	15	12
Federal excises.....				
Federal-State payroll taxes.....			32	245
State income taxes.....				
State sales taxes.....				
Property taxes.....	120	122	126	127
State corporate taxes.....	16	32	27	27
Miscellaneous.....				
Total taxes.....	155	171	200	411

GENERAL THEATERS EQUIPMENT CORP.

Sales.....				9,498
Gross profits.....				2,979
Net income.....				1,433
Profit rate.....				12.39
Equity ratio.....				14.25
Federal corporate income tax.....				119
Undistributed profits tax.....				13
Federal capital stock tax.....				35
Federal excises.....				1
Federal-State payroll taxes.....				56
State income taxes.....				35
State sales taxes.....				2
Property taxes.....				18
State corporate taxes.....				4
Miscellaneous.....				
Total taxes.....				283

GIBSON ART COMPANY¹

Sales.....	3,364	3,646	3,241	3,413
Gross profits.....	1,372	1,483	1,478	1,532
Net income.....	550	626	646	616
Profit rate.....	19.94	21.14	23.41	21.70
Equity ratio.....	9.78	10.28	8.56	8.68
Federal corporate income tax.....	77	89	89	84
Undistributed profits tax.....	X	X	12	17
Federal capital stock tax.....	5	5	6	7
Federal excises.....				
Federal-State payroll taxes.....	X		16	42
State income taxes.....				X
State sales taxes.....				
Property taxes.....	20	23	22	24
State corporate taxes.....	3	2	3	3
Miscellaneous.....		2		
Total taxes.....	105	121	148	177

¹ Fiscal year ended Feb. 23.

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

GILLETTE SAFETY RAZOR COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	15,224	15,549	17,220	17,974
Gross profits.....	11,178	11,512	12,392	12,753
Net income.....	5,243	5,472	6,140	5,836
Profit rate.....	20.47	23.44	26.47	24.60
Equity ratio.....	3.95	7.78	7.63	9.99
Federal corporate income tax.....	333	279	354	257
Undistributed profits tax.....			7	X
Federal capital stock tax.....	53	54	58	58
Federal excises.....	2		X	3
Federal-State payroll taxes.....			18	63
State income taxes.....	51	41	54	40
State sales taxes.....		X	X	1
Property taxes.....	122	115	96	94
State corporate taxes.....	33	40	39	38
Miscellaneous.....				
Total taxes.....	594	529	626	554

GIMBEL BROTHERS INCORPORATED

Sales.....	77,155	82,068	95,684	100,081
Gross profits.....	17,669	19,932	24,509	24,868
Net income.....	1,938	2,463	5,174	4,119
Profit rate.....	2.64	3.42	7.08	5.31
Equity ratio.....	1.37	1.44	1.59	1.51
Federal corporate income tax.....		75	268	209
Undistributed profits tax.....			103	122
Federal capital stock tax.....	11	13	42	43
Federal excises.....	X			
Federal-State payroll taxes.....		48	125	307
State income taxes.....	162	60	100	141
State sales taxes.....		34	32	51
Property taxes.....	771	748	733	761
State corporate taxes.....				
Miscellaneous.....		8	18	10
Total taxes.....	944	986	1,421	1,644

GLADDING, McBEAN & COMPANY

Sales.....	1,990	2,533	4,045	4,650
Gross profits.....	745	1,008	1,863	1,943
Net income.....	(298)	(138)	433	130
Profit rate.....	(4.19)	(1.83)	5.55	1.63
Equity ratio.....	10.29	8.05	8.07	4.65
Federal corporate income tax.....			64	20
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	12	4
Federal excises.....	X	X		
Federal-State payroll taxes.....			18	70
State income taxes.....				11
State sales taxes.....				
Property taxes.....	69	68	74	89
State corporate taxes.....	2	2	2	2
Miscellaneous.....				
Total taxes.....	77	75	170	196

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE GLIDDEN COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		39,529	44,581	54,052
Gross profits.....		10,341	11,346	11,724
Net income.....		3,290	3,735	3,021
Profit rate.....		11.40	13.42	10.86
Equity ratio.....		3.99	9.07	4.65
Federal corporate income tax.....		400	486	400
Undistributed profits tax.....			0	0
Federal capital stock tax.....		35	36	43
Federal excises.....		3,559	2,679	1,766
Federal-State payroll taxes.....			51	191
State income taxes.....				29
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....		194	239	267
Total taxes.....		4,188	3,491	2,696

GLOBE DEMOCRAT PUBLISHING CO.

	1934	1935	1936	1937
Sales.....	3,762	3,975	4,253	4,701
Gross profits.....	1,518	1,530	1,544	2,150
Net income.....	443	374	309	287
Profit rate.....	10.09	8.35	6.90	6.37
Equity ratio.....	12.32	16.88	17.09	16.83
Federal corporate income tax.....	56	54	42	42
Undistributed profits tax.....			7	11
Federal capital stock tax.....	9	10	X	5
Federal excises.....				
Federal-State payroll taxes.....			18	53
State income taxes.....	7	7	5	5
State sales taxes.....	10	4	0	0
Property taxes.....	46	49	45	43
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	129	125	118	160

GLOBE GRAIN & MILLING COMPANY

	1934	1935	1936	1937
Sales.....	11,050	13,013	15,751	12,879
Gross profits.....	2,666	2,165	2,014	1,270
Net income.....	119	(49)	594	(146)
Profit rate.....	1.90	(0.79)	8.96	(2.30)
Equity ratio.....	4.66	5.69	6.00	48.97
Federal corporate income tax.....	4	15	56	0
Undistributed profits tax.....				
Federal capital stock tax.....	6	6	5	5
Federal excises.....				
Federal-State payroll taxes.....			23	42
State income taxes.....	X	2	7	5
State sales taxes.....				
Property taxes.....	77	74	74	80
State corporate taxes.....				
Miscellaneous.....		8	3	3
Total taxes.....	87	105	168	135

Indicate no data available.

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() indicate deficit.

GODCHAUX SUGARS, INCORPORATED

[\$'000's]

	1934	1935	1936	1937
Sales.....		19,320	19,820	22,352
Gross profits.....	2,190	2,338	2,269	3,440
Net income.....	1,092	1,033	1,151	1,122
Profit rate.....	9.97	8.73	9.54	9.19
Equity ratio.....	2.96	3.69	3.73	3.54
Federal corporate income tax.....	108	122	149	145
Undistributed profits tax.....	8	10	2	39
Federal capital stock tax.....			10	10
Federal excises.....	1,485	1,716		756
Federal-State payroll taxes.....			15	41
State income taxes.....	15	14	16	23
State sales taxes.....				
Property taxes.....	61	62	64	59
State corporate taxes.....	11	21	21	23
Miscellaneous.....	1	1	1	1
Total taxes.....	1,689	1,946	278	1,097

GOEBEL BREWING COMPANY

Sales.....		6,225	5,248	4,562
Gross profits.....		4,663	3,977	3,286
Net income.....		1,598	1,148	627
Profit rate.....		57.77	39.65	21.71
Equity ratio.....		5.98	7.94	12.19
Federal corporate income tax.....		253	186	93
Undistributed profits tax.....				
Federal capital stock tax.....		22	14	14
Federal excises.....		1,820	1,545	1,359
Federal-State payroll taxes.....			6	19
State income taxes.....				
State sales taxes.....		501	428	353
Property taxes.....		26	34	46
State corporate taxes.....		5	5	7
Miscellaneous.....		4	4	4
Total taxes.....		2,631	2,222	1,895

THE GOODYEAR TIRE & RUBBER CO.

Sales.....	136,801	164,864	185,916	216,175
Gross profits.....	60,845	57,347	62,747	76,075
Net income.....	8,502	9,144	15,342	11,942
Profit rate.....	4.85	5.19	8.38	6.65
Equity ratio.....	1.72	1.80	1.95	1.89
Federal corporate income tax.....	307	341	717	652
Undistributed profits tax.....			X	X
Federal capital stock tax.....	106	165	238	204
Federal excises.....	9,053	8,707	9,406	9,753
Federal-State payroll taxes.....			461	1,579
State income taxes.....	212	186	225	251
State sales taxes.....				
Property taxes.....	900	993	982	1,228
State corporate taxes.....				
Miscellaneous.....	35	53	34	35
Total taxes.....	10,613	10,445	12,063	13,702

--- Indicate no data available.

X indicates less than \$1,000.

CONCENTRATION OF ECONOMIC POWER

18301

GORHAM INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	2,295	2,315	2,932	2,989
Gross profits.....	776	852	1,076	1,142
Net income.....	(360)	(139)	23	52
Profit rate.....	(6.49)	(2.64)	0.45	1.08
Equity ratio.....	37.67	41.26	18.74	37.70
Federal corporate income tax.....		X	X	X
Undistributed profits tax.....				
Federal capital stock tax.....	3	4	4	3
Federal excises.....	18	65	7	
Federal-State payroll taxes.....		X	6	20
State income taxes.....	5	5	4	4
State sales taxes.....	9	1	2	1
Property taxes.....	67	65	65	64
State corporate taxes.....	3	3	2	2
Miscellaneous.....	9	3	3	4
Total taxes.....	114	146	93	98

GOTHAM SILK HOSIERY CO., INC.

Sales.....	4,784	8,053	9,216	9,174
Gross profits.....	1,261	1,910	2,052	2,128
Net income.....	(23)	673	634	620
Profit rate.....	(0.31)	9.09	8.79	8.69
Equity ratio.....	1.78	2.23	2.11	2.37
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	7	6	7	6
Federal excises.....				
Federal-State payroll taxes.....			52	153
State income taxes.....	3	3	3	5
State sales taxes.....				
Property taxes.....	97	103	86	78
State corporate taxes.....	3	11	13	24
Miscellaneous.....				
Total taxes.....	110	123	161	266

GRAND VALLEY BREWING COMPANY

Sales.....		538	382	210
Gross profits.....		171	133	130
Net income.....		87	31	(22)
Profit rate.....		40.27	14.45	(11.14)
Equity ratio.....		5.34	6.06	5.06
Federal corporate income tax.....		15	5	
Undistributed profits tax.....			1	
Federal capital stock tax.....		1	1	1
Federal excises.....		160	112	67
Federal-State payroll taxes.....			1	1
State income taxes.....				
State sales taxes.....		40	28	17
Property taxes.....		1	1	1
State corporate taxes.....		1	1	X
Miscellaneous.....		2	1	1
Total taxes.....		220	151	88

---- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

GRANITE CITY STEEL COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	5,189	8,083	10,118	13,234
Gross profits.....	1,318	1,960	1,735	2,166
Net income.....	272	705	347	323
Profit rate.....	2.90	6.49	2.88	2.39
Equity ratio.....	27.58	15.89	5.90	4.27
Federal corporate income tax.....	13	75	34	25
Undistributed profits tax.....				
Federal capital stock tax.....	8	8	10	11
Federal excises.....				
Federal-State payroll taxes.....			41	147
State income taxes.....	X	X	X	X
State sales taxes.....		X		1
Property taxes.....	66	66	63	75
State corporate taxes.....	3	3	5	5
Miscellaneous.....				
Total taxes.....	90	152	153	264

GRIESEDIECK WESTERN BREWERY COMPANY

	1934	1935	1936	1937
Sales.....	1,390	1,195	2,386	3,744
Gross profits.....	1,020	854	1,682	2,613
Net income.....	155	61	250	457
Profit rate.....	29.86	11.54	37.67	53.08
Equity ratio.....	6.03	7.94	1.28	1.59
Federal corporate income tax.....	21	8	36	72
Undistributed profits tax.....				27
Federal capital stock tax.....	2	2	3	3
Federal excises.....	567	452	784	1,184
Federal-State payroll taxes.....			3	11
State income taxes.....	55	45		
State sales taxes.....			86	117
Property taxes.....	4	5	7	8
State corporate taxes.....	X	X	X	X
Miscellaneous.....	1	1	1	1
Total taxes.....	650	513	920	1,423

THE HALLE BROTHERS COMPANY

	1934	1935	1936	1937
Sales.....	13,339	13,849	16,339	17,548
Gross profits.....	3,739	3,799	4,562	4,890
Net income.....	744	632	1,071	886
Profit rate.....	8.31	7.28	11.46	9.46
Equity ratio.....	1.43	1.52	1.76	1.85
Federal corporate income tax.....	67	52	110	106
Undistributed profits tax.....			10	23
Federal capital stock tax.....	4	5	10	10
Federal excises.....	0			
Federal-State payroll taxes.....		3	39	112
State income taxes.....	0			
State sales taxes.....	0			
Property taxes.....	173	186	174	182
State corporate taxes.....	5	4	5	8
Miscellaneous.....	3	3	3	3
Total taxes.....	252	253	351	444

--- indicate no data available.

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() indicate deficit.

C. M. HALL LAMP COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	1,171	1,815	1,808	1,841
Gross profits.....	267	313	452	442
Net income.....	66	163	205	25
Profit rate.....	3.04	7.35	9.19	1.21
Equity ratio.....	29.69	19.13	15.78	31.21
Federal corporate income tax.....	6	12	30	6
Undistributed profits tax.....				
Federal capital stock tax.....	3	2	2	2
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....		5	19	13
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	37	37	42	47
State corporate taxes.....	3	4	4	5
Miscellaneous.....				
Total taxes.....	49	60	97	73

HAMILTON MANUFACTURING COMPANY

	1,199	1,851	2,512	2,940
Sales.....	1,199	1,851	2,512	2,940
Gross profits.....	347	650	922	1,038
Net income.....	(21)	138	207	243
Profit rate.....	(0.79)	5.07	7.19	7.78
Equity ratio.....	1.32	1.37	1.39	1.32
Federal corporate income tax.....			11	21
Undistributed profits tax.....				24
Federal capital stock tax.....	2	3	3	3
Federal excises.....	1	2	X	1
Federal-State payroll taxes.....			1	36
State income taxes.....	X	X	X	3
State sales taxes.....				
Property taxes.....	43	57	55	56
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	46	62	70	144

HAMILTON WATCH COMPANY

	2,853	4,160	5,958	7,389
Sales.....	2,853	4,160	5,958	7,389
Gross profits.....	1,009	1,541	2,244	2,931
Net income.....	332	641	1,112	1,639
Profit rate.....	7.30	12.86	20.68	28.01
Equity ratio.....	40.96	24.52	4.74	3.43
Federal corporate income tax.....	39	70	88	294
Undistributed profits tax.....				
Federal capital stock tax.....	4	14	6	10
Federal excises.....				
Federal-State payroll taxes.....			21	84
State income taxes.....		25	49	76
State sales taxes.....				
Property taxes.....	19	12	14	11
State corporate taxes.....	1	23	37	17
Miscellaneous.....				
Total taxes.....	63	144	215	492

--- indicate no data available.

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() indicate deficit.

HANCOCK OIL COMPANY OF CAL.¹

[\$000's]

	1934	1935	1936	1937
Sales.....	5,614	5,461	6,184	7,047
Gross profits.....	1,438	1,994	2,273	3,510
Net income.....	283	473	556	1,161
Profit rate.....	13.26	19.51	21.28	35.93
Equity ratio.....	2.31	3.53	4.97	3.71
Federal corporate income tax.....	17	41	54	90
Undistributed profits tax.....	X			5
Federal capital stock tax.....	4	6	6	20
Federal excises.....	22	18	12	9
Federal-State payroll taxes.....	X	2	11	25
State income taxes.....	X	5	12	17
State sales taxes.....	17	27	25	30
Property taxes.....	40	35	75	74
State corporate taxes.....	2	2	2	2
Miscellaneous.....	1	1	1	1
Total taxes.....	103	137	198	273

¹ Fiscal year ended June 30.

THE HARBAUER COMPANY

Sales.....		1,156	1,222	873
Gross profits.....	293	256	250	116
Net income.....	122	80	85	(44)
Profit rate.....	14.60	9.48	9.61	(5.44)
Equity ratio.....	10.33	11.73	7.85	10.80
Federal corporate income tax.....	22	14	11	11
Undistributed profits tax.....				1
Federal capital stock tax.....	1	1	1	1
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			1	5
State income taxes.....				
State sales taxes.....				
Property taxes.....	9	7	7	9
State corporate taxes.....	1	1	1	1
Miscellaneous.....	X	X	X	1
Total taxes.....	33	23	21	29

THE HARTFORD RAYON CORP.

Sales.....	849	1,367	1,850	2,031
Gross profits.....	98	247	416	657
Net income.....	(109)	(6)	62	211
Profit rate.....	(11.36)	(0.50)	5.25	12.94
Equity ratio.....	6.07	3.34	3.52	4.00
Federal corporate income tax.....			2	28
Undistributed profits tax.....				
Federal Capital stock tax.....	1	1	2	2
Federal excises.....				
Federal-State payroll taxes.....			9	30
State income taxes.....				3
State sales taxes.....	1	1	1	1
Property taxes.....	14	15	12	15
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	16	17	26	79

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

HAT CORP. OF AMERICA

[\$000's]

	1934	1935	1936	1937
Sales.....		8,390	9,666	10,630
Gross profits.....		3,208	3,775	3,844
Net income.....		902	1,072	790
Profit rate.....		14.11	16.09	12.08
Equity ratio.....		14.54	10.28	9.66
Federal corporate income tax.....		123	149	123
Undistributed profits tax.....				2
Federal capital stock tax.....		13	13	15
Federal excises.....				
Federal-State payroll taxes.....			35	122
State income taxes.....		36	38	23
State sales taxes.....		1	2	2
Property taxes.....		16	16	16
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		189	253	303

HATHAWAY BAKERIES, INC.

Sales.....	5,975	6,416	6,551	6,851
Gross profits.....	2,533	2,670	2,899	3,078
Net income.....	(53)	24	104	(45)
Profit rate.....	(1.36)	0.62	2.67	(1.47)
Equity ratio.....	8.87	7.45	8.22	7.59
Federal corporate income tax.....		4	13	
Undistributed profits tax.....			4	
Federal capital stock tax.....	2	3	3	3
Federal excises.....				
Federal-State payroll taxes.....			24	81
State income taxes.....	25	23	26	29
State sales taxes.....				
Property taxes.....	55	43	41	42
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	82	73	111	155

HAWAIIAN PINEAPPLE COMPANY LTD.¹

Sales.....	11,622	16,352	21,857	19,772
Gross profits.....	6,589	9,502	12,049	10,668
Net income.....	1,859	3,236	3,949	2,663
Profit rate.....	17.68	22.22	25.81	13.97
Equity ratio.....	3.77	7.73	5.20	5.64
Federal corporate income tax.....	190	423	582	412
Undistributed profits tax.....	X		88	
Federal capital stock tax.....	22	40	46	50
Federal excises.....	1	1	X	
Federal-State payroll taxes.....	X		53	110
State income taxes.....	89	200	242	157
State sales taxes.....		137	200	203
Property taxes.....	159	180	217	226
State corporate taxes.....	X	1	1	1
Miscellaneous.....	72	4	2	9
Total taxes.....	533	986	1,431	1,168

¹ Fiscal year ended May 31.

---- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

HAYES BODY CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			2,109	2,761
Gross profits.....			273	178
Net income.....			(17)	(47)
Profit rate.....			(1.00)	(2.81)
Equity ratio.....			8.57	3.19
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....			1	1
Federal excises.....				
Federal-State payroll taxes.....			7	34
State income taxes.....				
State sales taxes.....				
Property taxes.....			19	20
State corporate taxes.....			4	4
Miscellaneous.....			X	X
Total taxes.....			31	59

HAZEL ATLAS GLASS COMPANY

Sales.....	22,868	25,504	29,193	32,693
Gross profits.....	7,456	8,916	9,613	10,231
Net income.....	2,614	3,763	3,379	3,410
Profit rate.....	14.72	19.94	18.14	18.18
Equity ratio.....	22.45	19.70	13.52	11.53
Federal corporate income tax.....	351	470	531	512
Undistributed profits tax.....			0	0
Federal capital stock tax.....	30	48	42	40
Federal excises.....	4	0	0	0
Federal-State payroll taxes.....			103	355
State income taxes.....	13	79	57	85
State sales taxes.....	35	33	35	40
Property taxes.....	79	87	81	97
State corporate taxes.....	9	77	52	64
Miscellaneous.....				
Total taxes.....	521	794	901	1,193

HEARN DEPARTMENT STORES, INC.

Sales.....		16,436	17,054	20,750 ⁴
Gross profits.....		4,678	5,627	6,815
Net income.....		405	656	16
Profit rate.....		12.04	15.61	3.88
Equity ratio.....		13.28	6.91	2.42
Federal corporate income tax.....		47	82	24
Undistributed profits tax.....				
Federal capital stock tax.....		7	8	9
Federal excises.....				
Federal-State payroll taxes.....		2	29	106
State income taxes.....		12	7	23
State sales taxes.....		15	17	20
Property taxes.....		74	75	136
State corporate taxes.....				
Miscellaneous.....		2	1	2
Total taxes.....		159	219	320

- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

HECKER PRODUCTS CORPORATION¹

[\$000's]

	1934	1935	1936	1937
Sales.....	31,408	31,726	31,914	27,939
Gross profits.....	10,979	8,748	8,091	5,924
Net income.....	2,277	1,624	1,721	979
Profit rate.....	7.78	7.43	7.86	4.48
Equity ratio.....	11.24	5.70	12.95	15.62
Federal corporate income tax.....	162	221	226	84
Undistributed profits tax.....				
Federal capital stock tax.....	39	39	53	48
Federal excises.....	237	237	195	133
Federal-State payroll taxes.....			61	120
State income taxes.....	51	40	45	49
State sales taxes.....	6	5	5	5
Property taxes.....	250	262	260	264
State corporate taxes.....	26	9	12	13
Miscellaneous.....	3,261	10	16	14
Total taxes.....	4,022	837	862	730

¹ Fiscal year basis. Formerly Gold Dust Corp. Also includes data for Best Foods Inc. A 71% owned subsidiary.

HEIN-WERNER MOTOR PARTS CORPORATION

Sales.....		580	883	1,022
Gross profits.....		201	262	277
Net income.....		105	138	115
Profit rate.....		32.24	29.22	23.38
Equity ratio.....		3.23	4.60	7.22
Federal corporate income tax.....		16	18	15
Undistributed profits tax.....			7	3
Federal capital stock tax.....		3	3	2
Federal excises.....		5	9	9
Federal-State payroll taxes.....			5	7
State income taxes.....		7	8	5
State sales taxes.....				
Property taxes.....		2	3	5
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		33	53	46

HELENA RUBINSTEIN INC.

Sales.....	1,947	1,862	2,084	2,509
Gross profits.....	1,435	1,223	1,592	1,857
Net income.....	188	96	215	309
Profit rate.....	12.61	6.86	18.06	25.57
Equity ratio.....	4.14	3.53	1.83	1.57
Federal corporate income tax.....	24	24	46	45
Undistributed profits tax.....				
Federal capital stock tax.....	4	4	4	4
Federal excises.....	154	178	205	229
Federal-State payroll taxes.....			4	17
State income taxes.....	5	6	4	4
State sales taxes.....	X	X	1	3
Property taxes.....	10	7	8	7
State corporate taxes.....				1
Miscellaneous.....	1	X	X	2
Total taxes.....	198	219	272	312

..... indicate no data available.

X indicates less than \$1,000.

HERCULES MOTORS CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			8,248	10,588
Gross profits.....	825	1,173	1,371	2,069
Net income.....	243	468	526	1,009
Profit rate.....	8.67	15.83	18.43	29.89
Equity ratio.....	9.23	5.58	2.98	2.16
Federal corporate income tax.....	29	64	84	181
Undistributed profits tax.....			0	70
Federal capital stock tax.....	4	7	3	6
Federal excises.....	1	X	X	X
Federal-State payroll taxes.....			20	92
State income taxes.....	0	0	0	0
State sales taxes.....	0	X	X	X
Property taxes.....	12	12	17	20
State corporate taxes.....	2	2	2	3
Miscellaneous.....	0	X	X	X
Total taxes.....	48	85	126	372

HERCULES POWDER COMPANY

Sales.....	25,795	29,670	36,741	44,556
Gross profits.....	11,340	12,270	15,335	17,837
Net income.....	3,437	3,637	5,230	5,621
Profit rate.....	9.79	10.93	15.51	14.55
Equity ratio.....	27.74	20.81	12.14	16.56
Federal corporate income tax.....	396	530	873	1,003
Undistributed profits tax.....			97	168
Federal capital stock tax.....	51	57	72	61
Federal excises.....				
Federal-State payroll taxes.....			87	295
State income taxes.....	30	40	67	113
State sales taxes.....	24	31	24	X
Property taxes.....	234	237	245	250
State corporate taxes.....	22	19	23	43
Miscellaneous.....	3			
Total taxes.....	760	914	1,488	1,933

THE HERMAN NELSON CORPORATION

Sales.....			1,256	1,055
Gross profits.....	216	404	516	342
Net income.....	(64)	34	66	(66)
Profit rate.....	(6.40)	3.33	6.40	(6.82)
Equity ratio.....	83.24	42.89	13.53	3.23
Federal corporate income tax.....		9	9	
Undistributed profits tax.....			1	
Federal capital stock tax.....	1	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			3	9
State income taxes.....				
State sales taxes.....	1	X	1	1
Property taxes.....	4	5	4	5
State corporate taxes.....	1	1	X	X
Miscellaneous.....		X		
Total taxes.....	7	16	19	16

--- indicate no data available

X indicates less than \$1,000.

() indicate deficit.

HERSHEY CHOCOLATE CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	30,347	34,956	37,393	38,267
Gross profits.....	11,134	11,648	10,913	11,067
Net income.....	6,032	6,252	4,679	1,279
Profit rate.....	38.58	34.76	26.11	8.98
Equity ratio.....	4.88	4.96	2.32	1.15
Federal corporate income tax.....	925	895	659	188
Undistributed profits tax.....	X	X	X	63
Federal capital stock tax.....	23	63	57	2
Federal excises.....	134	1	1	138
Federal-State payroll taxes.....	X	X	49	72
State income taxes.....	101	295	349	33
State sales taxes.....	X	1		155
Property taxes.....	44	49	25	
State corporate taxes.....	1	198	349	
Miscellaneous.....				
Total taxes.....	1,228	1,502	1,489	651

HEWITT RUBBER CORPORATION

Sales.....			2,904	3,387
Gross profits.....			1,173	1,298
Net income.....			356	331
Profit rate.....			18.84	16.37
Equity ratio.....			1.33	9.96
Federal corporate income tax.....			48	42
Undistributed profits tax.....			12	11
Federal capital stock tax.....			4	4
Federal excises.....			X	X
Federal-State payroll taxes.....			9	26
State income taxes.....			9	10
State sales taxes.....			X	X
Property taxes.....			13	15
State corporate taxes.....			1	3
Miscellaneous.....				
Total taxes.....			96	111

HIBBARD SPENCER BARTLETT & COMPANY

Sales.....	01,412	11,665	13,742	14,312
Gross profits.....	2,486	2,432	3,047	3,518
Net income.....	609	438	713	888
Profit rate.....	7.12	5.04	8.19	9.03
Equity ratio.....	7.19	6.39	3.36	11.92
Federal corporate income tax.....	76	53	105	145
Undistributed profits tax.....				7
Federal capital stock tax.....	8	9	9	10
Federal excises.....				
Federal-State payroll taxes.....			14	60
State income taxes.....				
State sales taxes.....	7	12	16	20
Property taxes.....	105	70	88	103
State corporate taxes.....	3	3	3	3
Miscellaneous.....	1	X		X
Total taxes.....	200	147	235	348

---- indicate no data available.

X indicates less than \$1,000.

HILTON DAVIS CHEMICAL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....			2,011	2,073
Gross profits.....			455	433
Net income.....			226	151
Profit rate.....			18.76	11.07
Equity ratio.....			3.84	2.33
Federal corporate income tax.....			28	25
Undistributed profits tax.....			3	4
Federal capital stock tax.....			4	3
Federal excises.....				
Federal-State payroll taxes.....			5	10
State income taxes.....				
State sales taxes.....				
Property taxes.....			4	7
State corporate taxes.....			1	2
Miscellaneous.....				
Total taxes.....			45	51

HIRAM WALKER & SONS, INC., AND H. WALKER-GOODERHAM & WORTS LTD.

Sales.....		45,353	54,729	63,970
Gross profits.....		12,121	14,772	18,579
Net income.....		4,041	6,121	8,529
Profit rate.....		12.59	14.41	18.76
Equity ratio.....		3.20	2.47	2.05
Federal corporate income tax.....		262	514	666
Undistributed profits tax.....				
Federal capital stock tax.....		53	107	88
Federal excises.....		20,983	28,036	30,231
Federal-State payroll taxes.....			21	81
State income taxes.....		2	7	18
State sales taxes.....		1	1	X
Property taxes.....		19	108	124
State corporate taxes.....		1	1	2
Miscellaneous.....		32	41	33
Total taxes.....		21,353	28,836	31,243

HOLLY SUGAR CORPORATION ¹

Sales.....	12,763	20,042	23,400	14,200
Gross profits.....	4,470	6,585	7,395	4,808
Net income.....	2,126	3,663	3,975	1,502
Profit rate.....	17.43	27.52	24.22	9.70
Equity ratio.....	.68	1.01	1.21	.66
Federal corporate income tax.....	239	609	565	192
Undistributed profits tax.....			88	1
Federal capital stock tax.....	21	45	47	25
Federal excises.....	3,119	265		2,021
Federal-State payroll taxes.....		4	36	101
State income taxes.....	47	78	71	32
State sales taxes.....	X	X	X	36
Property taxes.....	204	244	203	242
State corporate taxes.....	4	22	1	1
Miscellaneous.....		4		
Total taxes.....	3,634	1,271	1,011	2,651

¹ Fiscal year ended Mar. 31.

..... indicate no data available.

X indicates less than \$1,000.

HOME DAIRY COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	1,410	1,482	1,756	1,949
Gross profits.....	553	571	640	694
Net income.....	18	18	29	31
Profit rate.....	1.60	1.78	2.87	3.10
Equity ratio.....	9.58	7.88	5.72	6.19
Federal corporate income tax.....	2	2	3	3
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....	X	1	X	1
Federal-State payroll taxes.....				
State income taxes.....			4	12
State sales taxes.....	39	41	48	54
Property taxes.....	16	16	15	14
State corporate taxes.....	3	3	3	2
Miscellaneous.....				
Total taxes.....	61	63	73	86

HONOLULU PLANTATION COMPANY

Sales.....	2,816	3,294	3,923	3,438
Gross profits.....	1,234	1,623	1,908	1,625
Net income.....	154	448	686	498
Profit rate.....	2.91	8.61	13.12	9.63
Equity ratio.....	25.66	23.74	14.76	13.99
Federal corporate income tax.....	19	43	93	68
Undistributed profits tax.....				
Federal capital stock tax.....	10	7	7	7
Federal excises.....	162	385		121
Federal-State payroll taxes.....			6	11
State income taxes.....	6	8	40	42
State sales taxes.....	38	11	36	31
Property taxes.....	124	108	79	90
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	359	562	261	370

HORDERS INCORPORATED

Sales.....	2,590	2,840	3,392	3,795
Gross profits.....	954	987	1,185	1,324
Net income.....	222	147	286	319
Profit rate.....	10.38	6.83	12.97	14.19
Equity ratio.....	3.56	4.21	4.27	4.59
Federal corporate income tax.....	25	15	35	46
Undistributed profits tax.....			3	3
Federal capital stock tax.....	1	1	4	4
Federal excises.....				
Federal-State payroll taxes.....			7	19
State income taxes.....				
State sales taxes.....	30	41	54	59
Property taxes.....	16	23	32	28
State corporate taxes.....	1	1	1	1
Miscellaneous.....		1		
Total taxes.....	73	82	130	160

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

GEORGE A. HORMEL & COMPANY

[\$000's]¹

	1934	1935	1936	1937
Sales.....		47,641	55,807	60,760
Gross profits.....		4,755	5,908	5,776
Net income.....		864	1,131	984
Profit rate.....		9.29	11.90	10.14
Equity ratio.....		3.21	3.63	4.77
Federal corporate income tax.....		223	280	139
Undistributed profits tax.....				3
Federal capital stock tax.....		9	12	12
Federal excises.....				
Federal-State payroll taxes.....		5,816	44	161
State income taxes.....		28	42	37
State sales taxes.....				
Property taxes.....		146	168	141
State corporate taxes.....		11	18	25
Miscellaneous.....				44
Total taxes.....		6,233	564	562

A. C. HORN COMPANY

Sales.....			2,846	3,471
Gross profits.....			1,338	1,628
Net income.....			241	206
Profit rate.....			13.79	10.89
Equity ratio.....			4.25	2.96
Federal corporate income tax.....			42	44
Undistributed profits tax.....			18	11
Federal capital stock tax.....			2	3
Federal excises.....				
Federal-State payroll taxes.....			7	36
State income taxes.....				
State sales taxes.....				
Property taxes.....			15	28
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....			84	122

JOSEPH HORNE CO.¹

Sales.....	12,919	13,688	15,325	17,779
Gross profits.....	3,476	3,649	4,172	4,859
Net income.....	751	773	1,017	943
Profit rate.....	4.95	5.00	6.64	5.95
Equity ratio.....	11.29	10.80	8.82	10.54
Federal corporate income tax.....	104	101	0	137
Undistributed profits tax.....			0	3
Federal capital stock tax.....	9	13	12	13
Federal excises.....	0	3	0	0
Federal-State payroll taxes.....			39	119
State income taxes.....	0	40	0	55
State sales taxes.....	11	12	12	14
Property taxes.....	183	179	178	178
State corporate taxes.....	39	54	56	50
Miscellaneous.....	X	2		X
Total taxes.....	366	404	297	569

¹ Fiscal year ended Jan. 31.

---- indicate no data available.

X indicates less than \$1,000.

HOSKINS MANUFACTURING COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	1,297	1,687	2,042	2,270
Gross profits.....	626	787	957	1,075
Net income.....	293	496	671	742
Profit rate.....	19.70	29.28	37.31	42.36
Equity ratio.....	10.59	7.27	5.07	4.89
Federal corporate income tax.....	38	66	95	107
Undistributed profits tax.....				
Federal capital stock tax.....	5	8	9	9
Federal excises.....				
Federal-State payroll taxes.....			6	17
State income taxes.....				
State sales taxes.....				
Property taxes.....	21	15	18	19
State corporate taxes.....	3	3	5	4
Miscellaneous.....				
Total taxes.....	67	92	133	156

HOUDAILLE-HERSHEY CORPORATION¹

Sales.....			18,949	20,714
Gross profits.....	3,119	5,398	5,552	5,835
Net income.....	1,104	2,927	2,833	2,842
Profit rate.....	10.70	26.89	25.73	24.77
Equity ratio.....	10.24	7.22	5.76	8.01
Federal corporate income tax.....	160	422	467	453
Undistributed profits tax.....	X	X		3
Federal capital stock tax.....	25	26	84	63
Federal excises.....	2			
Federal-State payroll taxes.....	X	X	66	214
State income taxes.....	2	4	27	56
State sales taxes.....				
Property taxes.....	60	73	78	81
State corporate taxes.....	21	20	19	20
Miscellaneous.....	2	X	X	X
Total taxes.....	272	539	735	921

¹ Including figures of subsidiary, Muskegon Motor Specialties Company.

HARVEY HUBBELL, INCORPORATED

Sales.....			2,232	2,759
Gross profits.....			893	1,051
Net income.....			392	506
Profit rate.....			36.83	38.35
Equity ratio.....			4.54	6.79
Federal corporate income tax.....			64	84
Undistributed profits tax.....			35	33
Federal capital stock tax.....			4	4
Federal excises.....				
Federal-State payroll taxes.....			7	24
State income taxes.....			8	9
State sales taxes.....				
Property taxes.....			21	21
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			131	175

--- Indicate no data available.

X Indicates less than \$1,000.

() Indicate deficit.

HUDSON MOTOR CAR COMPANY

[\$000's]

	1934	1935	1936	1937
Sales	52,568	63,077	77,151	74,502
Gross profits	9,360	14,467	18,628	15,534
Net income	(3,135)	1,042	4,276	1,092
Profit rate	(13.43)	3.48	13.37	3.40
Equity ratio	3.80	1.92	2.00	3.97
Federal corporate income tax		60	544	96
Undistributed profits tax				
Federal capital stock tax	-41	43	67	65
Federal excises	1,113	1,456	1,798	1,607
Federal-State payroll taxes			23	551
State income taxes	54	62	53	62
State sales taxes	22	17	19	16
Property taxes	536	600	568	589
State corporate taxes	57	56	55	54
Miscellaneous	8	10	12	9
Total taxes	1,831	2,304	3,139	3,049

HUMPHRYES MANUFACTURING CO.

	1934	1935	1936	1937
Sales	448	1,067	1,339	1,820
Gross profits	83	224	341	448
Net income	(61)	57	131	162
Profit rate	(7.84)	6.98	13.86	16.26
Equity ratio	22.33	27.04	11.96	17.29
Federal corporate income tax		8	18	24
Undistributed profits tax			2	10
Federal capital stock tax	1	X	1	1
Federal excises	X			
Federal-State payroll taxes			5	20
State income taxes				X
State sales taxes	X	X	X	1
Property taxes	6	4	4	6
State corporate taxes	1	1	1	1
Miscellaneous				
Total taxes	8	13	31	63

HUPP MOTOR CAR CORPORATION

	1934	1935	1936	1937
Sales	7,196	6,868	416	1,581
Gross profits	(519)	(101)	(102)	(456)
Net income	(4,398)	(2,589)	(1,042)	(1,802)
Profit rate	(43.35)	(45.49)	(23.38)	(34.03)
Equity ratio	13.74	7.31	818	626
Federal corporate income tax				
Undistributed profits tax				
Federal capital stock tax	18	8	3	5
Federal excises		5	X	1
Federal-State payroll taxes			3	27
State income taxes				
State sales taxes		1	X	X
Property taxes	162	135	116	105
State corporate taxes	11	22	24	20
Miscellaneous				
Total taxes	197	171	146	158

... indicate no data available.
X indicates less than \$1,000.
() indicate deficit.

HUSSMAN LIGONIER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	1,631	1,920	3,175	3,879
Gross profits.....	897	1,112	1,766	2,121
Net income.....	94	141	341	370
Profit rate.....	11.80	15.98	22.85	19.30
Equity ratio.....	5.60	1.17	1.82	1.71
Federal corporate income tax.....	7	19	44	51
Undistributed profits tax.....			16	10
Federal capital stock tax.....	X	2	5	5
Federal excises.....				
Federal-State payroll taxes.....			6	20
State income taxes.....	1	2	3	5
State sales taxes.....				
Property taxes.....	4	4	5	5
State corporate taxes.....	2	2	3	3
Miscellaneous.....	2	3	5	6
Total taxes.....	16	32	87	105

HYDE PARK BREWERIES ASSOCIATION, INC.¹

Sales.....	1,964	1,788	2,491	3,790
Gross profits.....	1,580	1,406	1,988	2,945
Net income.....	278	164	164	547
Profit rate.....	22.63	11.30	11.87	32.96
Equity ratio.....	8.17	4.71	5.60	2.71
Federal corporate income tax.....	X	37	21	27
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	6	5
Federal excises.....	729	633	819	1,153
Federal-State payroll taxes.....		1	6	17
State income taxes.....	X	4	3	3
State sales taxes.....	56	71	91	123
Property taxes.....	10	12	13	13
State corporate taxes.....	1	1	1	1
Miscellaneous.....	5	3	2	2
Total taxes.....	807	767	962	1,344

¹ Fiscal year ended Mar. 31.

ILLINOIS BRICK COMPANY

Sales.....	260	322	726	821
Gross profits.....	177	219	511	482
Net income.....	(386)	(313)	(196)	(243)
Profit rate.....	(12.52)	(10.98)	(6.18)	(8.46)
Equity ratio.....	12.64	26.17	13.51	9.45
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	6	6
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....	63	56	56	57
State corporate taxes.....	3	3	2	2
Miscellaneous.....				
Total taxes.....	72	64	64	65

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

ILLINOIS ZINC CO.

[\$000's]

	1934	1935	1936	1937
Sales.....			1,462	2,144
Gross profits.....			282	402
Net income.....			75	130
Profit rate.....			2.77	4.70
Equity ratio.....			3.38	7.28
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	2	1	2	2
Federal excises.....				
Federal-State payroll taxes.....			8	29
State income taxes.....			X	
State sales taxes.....				X
Property taxes.....	12	11	10	8
State corporate taxes.....	1	1	1	2
Miscellaneous.....				
Total taxes.....	15	13	21	41

INDEPENDENT PNEUMATIC TOOL CO.

Sales.....	2,138	2,896	3,858	4,491
Gross profits.....	1,392	1,780	2,269	2,596
Net income.....	775	1,023	1,289	1,369
Profit rate.....	19.42	24.71	30.37	30.78
Equity ratio.....	22.32	15.05	10.71	10.47
Federal corporate income tax.....	100	129	181	179
Undistributed profits tax.....			3	11
Federal capital stock tax.....	10	10	14	14
Federal excises.....				
Federal-State payroll taxes.....			13	43
State income taxes.....	2	4	7	19
State sales taxes.....	3	5	11	14
Property taxes.....	5	6	5	6
State corporate taxes.....	2	3	3	3
Miscellaneous.....	X	X	X	X
Total taxes.....	122	157	237	280

INDUSTRIAL RAYON CORP.

Sales.....	7,925	8,054	10,137	4,824
Gross profits.....	2,613	2,624	3,737	2,104
Net income.....	1,558	709	1,604	316
Profit rate.....	9.42	4.34	9.79	1.59
Equity ratio.....	16.42	16.00	13.99	12.11
Federal corporate income tax.....	237	111	248	39
Undistributed profits tax.....			8	0
Federal capital stock tax.....	30	31	40	40
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			35	85
State income taxes.....	10	10	11	5
State sales taxes.....	0	1	1	X
Property taxes.....	84	109	101	90
State corporate taxes.....	9	12	11	11
Miscellaneous.....			X	2
Total taxes.....	370	274	455	272

--- Indicate no data available.

X Indicates less than \$1,000.

INGERSOLL RAND COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	18,873	22,586	29,605	38,786
Gross profits.....	8,783	10,538	14,914	19,960
Net income.....	3,418	1,053	7,369	11,702
Profit rate.....	9.59	11.75	21.17	29.87
Equity ratio.....	16.87	12.46	10.55	9.60
Federal corporate income tax.....	400	193	967	1,627
Undistributed profits tax.....				349
Federal capital stock tax.....	41	41	101	83
Federal excises.....	11	12	25	34
Federal-State payroll taxes.....			86	307
State income taxes.....	13	32	63	137
State sales taxes.....	3	5	11	7
Property taxes.....	172	194	201	232
State corporate taxes.....	1	2	1	3
Miscellaneous.....	1	X	X	1
Total taxes.....	642	779	1,455	2,780

INLAND STEEL COMPANY

Sales.....	40,404	62,545	98,904	110,744
Gross profits.....	15,292	24,234	34,540	38,560
Net income.....	6,245	12,925	16,804	18,087
Profit rate.....	6.57	11.97	13.57	12.62
Equity ratio.....	1.29	1.71	1.50	1.44
Federal corporate income tax.....	572	1,550	1,820	2,683
Undistributed profits tax.....			374	825
Federal capital stock tax.....	51	128	167	185
Federal excises.....	X	7	8	10
Federal-State payroll taxes.....			248	812
State income taxes.....		2	48	47
State sales taxes.....	16	18	58	60
Property taxes.....	501	653	771	910
State corporate taxes.....	5	12	17	18
Miscellaneous.....				
Total taxes.....	1,145	2,370	3,511	5,550

INTERCHEMICAL CORPORATION

Sales.....	12,427	14,339	17,446	20,207
Gross profits.....	5,184	5,894	6,931	7,595
Net income.....	1,049	1,336	1,601	1,131
Profit rate.....	9.21	11.43	12.74	9.32
Equity ratio.....	14.87	9.08	4.68	3.42
Federal corporate income tax.....	112	202	274	209
Undistributed profits tax.....			18	13
Federal capital stock tax.....	19	24	26	32
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			49	164
State income taxes.....	10	8	8	22
State sales taxes.....	3	3	2	6
Property taxes.....	56	63	87	111
State corporate taxes.....	9	14	13	12
Miscellaneous.....				
Total taxes.....	209	314	477	569

--- indicate no data available.

X indicates less than \$1,000.

INTERNATIONAL AGRICULTURAL CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....			12,643	12,199
Gross profits.....			3,355	3,138
Net income.....			1,101	1,003
Profit rate.....			4.27	3.96
Equity ratio.....			3.92	4.93
Federal corporate income tax.....			0	55
Undistributed profits tax.....			0	11
Federal capital stock tax.....			10	12
Federal excises.....				
Federal-State payroll taxes.....			9	38
State income taxes.....				6
State sales taxes.....				
Property taxes.....			113	120
State corporate taxes.....			2	3
Miscellaneous.....			54	68
Total taxes.....			188	313

INTERNATIONAL BUSINESS MACHINES CORPORATION

Sales.....	20,949	21,864	26,243	31,787
Gross profits.....	17,360	19,402	23,354	27,909
Net income.....	7,570	8,267	9,361	10,605
Profit rate.....	15.43	15.74	15.76	15.67
Equity ratio.....	7.01	5.54	3.77	2.64
Federal corporate income tax.....	842	912	1,288	1,579
Undistributed profits tax.....			175	633
Federal capital stock tax.....	84	126	112	118
Federal excises.....			4	
Federal-State payroll taxes.....			75	305
State income taxes.....	90	83	127	226
State sales taxes.....	8	12	13	20
Property taxes.....	106	117	162	255
State corporate taxes.....	11	12	17	42
Miscellaneous.....				
Total taxes.....	1,141	1,262	1,973	3,178

INTL. BUTTON HOLE SEWING MACH. CO.

Sales.....				769
Gross profits.....				657
Net income.....				151
Profit rate.....				9.40
Equity ratio.....				23.15
Federal corporate income tax.....				3
Undistributed profits tax.....				
Federal capital stock tax.....				3
Federal excises.....				
Federal-State payroll taxes.....				X
State income taxes.....				X
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				X
Miscellaneous.....				
Total taxes.....				6

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

INTERNATIONAL HARVESTER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	138,312	217,583	254,934	351,928
Gross profits.....	56,198	87,980	100,433	129,434
Net income.....	8,899	24,744	37,444	43,945
Profit rate.....	3.04	8.15		13.44
Equity ratio.....	13.39	9.26	7.19	5.26
Federal corporate income tax.....	3,969	3,174	4,705	7,137
Undistributed profits tax.....			2,037	2,854
Federal capital stock tax.....	342	368	448	467
Federal excises.....	427	575	451	545
Federal-State payroll taxes.....			187	2,107
State income taxes.....	95	77	298	414
State sales taxes.....	22	36	41	31
Property taxes.....	2,906	1,837	2,244	2,618
State corporate taxes.....	64	69	80	147
Miscellaneous.....	95	119	142	203
Total taxes.....	7,920	6,255	10,633	16,523

INTERNATIONAL SHOE CO.

Sales.....		83,073	84,857	88,279
Gross profits.....		23,190	24,880	22,637
Net income.....		10,032	9,771	7,394
Profit rate.....		12.87	12.38	9.42
Equity ratio.....		17.97	13.13	19.56
Federal corporate income tax.....		1,391	1,337	1,126
Undistributed profits tax.....				
Federal capital stock tax.....		143	139	96
Federal excises.....		58		
Federal-State payroll taxes.....			245	907
State income taxes.....		90	81	100
State sales taxes.....		2	4	4
Property taxes.....		415	421	421
State corporate taxes.....		44	46	49
Miscellaneous.....		2	2	1
Total.....		2,145	2,275	2,704

INTERNATIONAL SILVER CO.

Sales.....	9,736	10,520	12,389	14,321
Gross profits.....	4,255	3,646	4,466	5,678
Net income.....	230	(479)	511	856
Profit rate.....	1.46	(3.15)	3.32	5.52
Equity ratio.....	47.23	61.64	31.15	28.16
Federal corporate income tax.....	18		53	136
Undistributed profits tax.....			14	12
Federal capital stock tax.....	12	12	6	6
Federal excises.....	23	12	8	
Federal-State payroll taxes.....			52	187
State income taxes.....	X	2		16
State sales taxes.....				
Property taxes.....	142	140	140	136
State corporate taxes.....	6	6	20	8
Miscellaneous.....			5	
Total taxes.....	206	172	303	501

.... indicate no data available.

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() indicate deficit.

INTERTYPE CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	3,053	3,362	4,074	4,861
Gross profits.....	1,782	1,998	2,140	2,428
Net income.....	217	413	481	513
Profit rate.....	3.50	6.80	8.49	8.48
Equity ratio.....	4.02	4.15	6.16	6.34
Federal corporate income tax.....	42	86	43	82
Undistributed profits tax.....			1	31
Federal capital stock tax.....	5	6	8	9
Federal excises.....				
Federal-State payroll taxes.....			16	62
State income taxes.....	12	34	16	29
State sales taxes.....	X	5	6	6
Property taxes.....	2	2	2	2
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	61	133	92	221

IRVING AIR CHUTE CO. INC.

Sales.....	600	1,304	1,345	1,790
Gross profits.....	338	614	501	622
Net income.....	145	423	250	374
Profit rate.....	15.43	39.03	22.77	34.06
Equity ratio.....	17.73	4.80	7.14	4.56
Federal corporate income tax.....	0	7	3	13
Undistributed profits tax.....				0
Federal capital stock tax.....	2	2	3	3
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			1	3
State income taxes.....	1	3	11	7
State sales taxes.....				
Property taxes.....	2	2	2	2
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	5	14	20	28

F. L. JACOBS COMPANY

Sales.....		1,440	3,439	5,680
Gross profits.....		463	532	1,415
Net income.....		287	502	625
Profit rate.....		58.71	41.65	38.21
Equity ratio.....		2.04	1.61	1.34
Federal corporate income tax.....		50	74	101
Undistributed profits tax.....			8	
Federal capital stock tax.....		1	6	9
Federal excises.....				
Federal-State payroll taxes.....			8	56
State income taxes.....				
State sales taxes.....				
Property taxes.....		3	6	13
State corporate taxes.....		X	1	2
Miscellaneous.....			1	X
Total taxes.....		54	104	181

--- indicate no data available.

X indicates less than \$1,000.

THE JAEGER MACHINE COMPANY

(\$000's)

	1934	1935	1936	1937
Sales		1,328	2,723	3,367
Gross profits		423	1,048	1,319
Net income		82	487	616
Profit rate		3.90	19.60	25.38
Equity ratio		23.69	7.63	4.80
Federal corporate income tax		3	68	75
Undistributed profits tax				5
Federal capital stock tax		2	4	4
Federal excises				
Federal-State payroll taxes			6	23
State income taxes				
State sales taxes		X	1	1
Property taxes		9	11	15
State corporate taxes		2	4	3
Miscellaneous				
Total taxes		16	94	126

JEANNETTE GLASS COMPANY, THE

Sales				1,020
Gross profits				170
Net income				(68)
Profit rate				(9.04)
Equity ratio				9.10
Federal corporate income tax				
Undistributed profits tax				
Federal capital stock tax				3
Federal excises				
Federal-State payroll taxes				12
State income taxes				
State sales taxes				
Property taxes				4
State corporate taxes				
Miscellaneous				
Total taxes				16

JEFFERSON ELECTRIC COMPANY

Sales			4,373	4,098
Gross profits	876	993	1,340	1,354
Net income	391	443	675	627
Profit rate	19.97	21.39	30.93	26.70
Equity ratio	11.34	12.19	5.80	8.91
Federal corporate income tax	49	55	101	83
Undistributed profits tax			14	11
Federal capital stock tax	3	5	5	5
Federal excises	1	1	1	X
Federal-State payroll taxes			15	40
State income taxes	X	X	X	1
State sales taxes				
Property taxes	16	17	18	20
State corporate taxes	1	1	1	1
Miscellaneous				
Total taxes	70	79	155	161

- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

JOHANSEN BROS. SHOE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		1,461	1,827	2,386
Gross profits.....		280	361	426
Net income.....		46	91	35
Profit rate.....		5.52	11.39	4.36
Equity ratio.....		1.80	1.93	1.77
Federal corporate income tax.....		3	10	1
Undistributed profits tax.....		X	1	1
Federal capital stock tax.....				
Federal excises.....			7	29
Federal-State payroll taxes.....		X	1	1
State income taxes.....				
State sales taxes.....		3	3	4
Property taxes.....		3	3	4
State corporate taxes.....		1	1	1
Miscellaneous.....				
Total taxes.....		10	26	41

JOSLYN MFG. & SUPPLY CO.

Sales.....			7,876	12,387
Gross profits.....			1,562	2,677
Net income.....			630	1,261
Profit rate.....			13.84	21.28
Equity ratio.....			2.63	3.64
Federal corporate income tax.....			86	217
Undistributed profits tax.....			1	16
Federal capital stock tax.....			2	10
Federal excises.....				
Federal-State payroll taxes.....			11	27
State income taxes.....			X	4
State sales taxes.....			14	17
Property taxes.....			26	40
State corporate taxes.....			3	4
Miscellaneous.....				X
Total taxes.....			143	335

THE JULIAN & KOKENGE CO.

Sales.....		3,360	3,604	4,124
Gross profits.....		1,062	1,167	1,146
Net income.....		411	474	365
Profit rate.....		17.00	17.78	13.63
Equity ratio.....		9.72	10.35	13.44
Federal corporate income tax.....		72	68	54
Undistributed profits tax.....				2
Federal capital stock tax.....		2	6	5
Federal excises.....				
Federal-State payroll taxes.....			8	32
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....		13	19	20
Miscellaneous.....				
Total taxes.....		87	101	113

---- indicate no data available.

X indicates less than \$1,000.

E. KAHNS SONS COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	10,908	14,329	15,243	16,482
Gross profits.....	1,005	1,196	1,264	1,271
Net income.....	179	356	317	207
Profit rate.....	4.53	8.69	7.23	4.87
Equity ratio.....	2.90	3.61	5.07	6.26
Federal corporate income tax.....	18	162	45	27
Undistributed profits tax.....				
Federal capital stock tax.....	3	4	3	3
Federal excises.....		1,018		
Federal-State payroll taxes.....			11	36
State income taxes.....	X	X	X	X
State sales taxes.....		1	1	1
Property taxes.....	22	21	28	33
State corporate taxes.....	3	3	3	6
Miscellaneous.....	X	X	X	10
Total taxes.....	46	1,209	91	116

KALAMAZOO STOVE AND FURNACE CO.

Sales.....	3,448	5,157	7,547	7,597
Gross profits.....	1,748	2,566	3,719	3,868
Net income.....	519	939	1,353	1,188
Profit rate.....	18.05	26.55	27.41	22.63
Equity ratio.....	8.71	5.95	3.76	6.32
Federal corporate income tax.....	77	152	213	195
Undistributed profits tax.....			60	74
Federal capital stock tax.....	4	14	22	21
Federal excises.....				
Federal-State payroll taxes.....			33	94
State income taxes.....	7	8	12	26
State sales taxes.....	19	25	2	24
Property taxes.....	24	20	21	25
State corporate taxes.....	5	5	5	6
Miscellaneous.....				
Total taxes.....	136	224	368	465

KATZ DRUG COMPANY

Sales.....	8,48	8,961	8,879	9,730
Gross profits.....	2,274	2,379	2,438	2,589
Net income.....	622	492	561	213
Profit rate.....	20.84	16.82	19.12	6.32
Equity ratio.....	6.12	8.34	6.37	2.90
Federal corporate income tax.....	87	68	81	28
Undistributed profits tax.....				X
Federal capital stock tax.....	9	10	10	10
Federal excises.....				
Federal-State payroll taxes.....			9	31
State income taxes.....	11	9	10	4
State sales taxes.....				
Property taxes.....	29	33	34	49
State corporate taxes.....	1	2	2	2
Miscellaneous.....	4	10	5	7
Total taxes.....	141	132	151	131

.... indicate no data available.
X indicates less than \$1,000.

KAUFMANN DEPARTMENT STORES, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales	18,491	20,153	24,405	27,371
Gross profits	4,719	5,964	7,460	8,317
Net income	1,036	1,321	1,927	2,047
Profit rate	5.38	6.82	10.10	10.65
Equity ratio	5.27	5.59	3.76	3.88
Federal corporate income tax	90	142	245	301
Undistributed profits tax				73
Federal capital stock tax	6	12	13	13
Federal excises	X	1	X	1
Federal-State payroll taxes			45	158
State income taxes		61	128	92
State sales taxes	15	18	18	29
Property taxes	327	322	336	340
State corporate taxes	22	50	61	45
Miscellaneous				
Total taxes	460	606	846	1,052

KELLY-KOETT MANUFACTURING COMPANY

Sales			1,322	1,521
Gross profits			518	518
Net income			107	19
Profit rate			18.54	3.33
Equity ratio			1.16	.96
Federal corporate income tax			12	
Undistributed profits tax				
Federal capital stock tax			2	2
Federal excises				
Federal-State payroll taxes			4	14
State income taxes			1	X
State sales taxes				
Property taxes			5	5
State corporate taxes			X	X
Miscellaneous				
Total taxes			24	21

KELSEY-HAYS WHEEL COMPANY

Sales	19,014	27,853	27,186	31,096
Gross profits				
Net income	559	1,606	1,019	925
Profit rate	5.17	21.76	12.49	10.64
Equity ratio85	.88	.83	.97
Federal corporate income tax		212	14	
Undistributed profits tax				
Federal capital stock tax	8	21	15	14
Federal excises	X	1	X	X
Federal-State payroll taxes			61	269
State income taxes				
State sales taxes				
Property taxes	125	124	174	182
State corporate taxes	4	6	14	15
Miscellaneous				
Total taxes	137	364	278	480

.... indicate no data available.

X indicates less than \$1,000.

KENDALL COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....	18,763	19,935	21,872	27,071
Gross profits.....	6,593	6,602	7,197	7,848
Net income.....	1,067	758	1,613	828
Profit rate.....	8.88	6.59	14.78	6.62
Equity ratio.....	.89	.86	.64	.67
Federal corporate income tax.....	96	82	151	-----
Undistributed profits tax.....	-----	-----	75	-----
Federal capital stock tax.....	27	20	19	19
Federal excises.....	4	6	-----	-----
Federal-State payroll taxes.....	-----	-----	54	185
State income taxes.....	23	7	20	22
State sales taxes.....	4	7	6	6
Property taxes.....	106	125	121	181
State corporate taxes.....	3	8	10	16
Miscellaneous.....	393	110	X	-----
Total taxes.....	656	365	456	429

KENNEDY'S, INCORPORATED

Sales.....	-----	-----	-----	4,245
Gross profits.....	-----	-----	-----	1,809
Net income.....	-----	-----	-----	424
Profit rate.....	-----	-----	-----	10.17
Equity ratio.....	-----	-----	-----	2.31
Federal corporate income tax.....	-----	-----	-----	63
Undistributed profits tax.....	-----	-----	-----	26
Federal capital stock tax.....	-----	-----	-----	11
Federal excises.....	-----	-----	-----	-----
Federal-State payroll taxes.....	-----	-----	-----	26
State income taxes.....	-----	-----	-----	23
State sales taxes.....	-----	-----	-----	-----
Property taxes.....	-----	-----	-----	104
State corporate taxes.....	-----	-----	-----	X
Miscellaneous.....	-----	-----	-----	-----
Total taxes.....	-----	-----	-----	253

KEN-RAD TUBE & LAMP CORPORATION

Sales.....	3,023	3,469	4,559	4,570
Gross profits.....	1,035	1,025	1,547	1,513
Net income.....	302	275	721	539
Profit rate.....	21.74	17.08	36.01	25.15
Equity ratio.....	3.78	6.40	5.34	6.20
Federal corporate income tax.....	44	43	122	88
Undistributed profits tax.....	-----	-----	90	24
Federal capital stock tax.....	3	5	7	4
Federal excises.....	16	14	13	15
Federal-State payroll taxes.....	-----	-----	16	50
State income taxes.....	-----	-----	21	18
State sales taxes.....	-----	-----	-----	-----
Property taxes.....	1	3	4	7
State corporate taxes.....	1	2	1	3
Miscellaneous.....	-----	-----	-----	-----
Total taxes.....	65	67	274	209

----- indicate no data available.

X indicates less than \$1,000.

KEY COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	675	1,002	1,244	1,587
Gross profits.....	205	391	422	573
Net income.....	(36)	118	96	170
Profit rate.....	(6.78)	20.82	17.30	21.04
Equity ratio.....	2.65	4.04	2.72	1.18
Federal corporate income tax.....	0	14	13	23
Undistributed profits tax.....			X	13
Federal capital stock tax.....	1	1	2	2
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			3	12
State income taxes.....	X	X	X	X
State sales taxes.....	X	X	X	X
Property taxes.....	8	8	10	12
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X	0	0
Total taxes.....	9	23	28	62

KEYSTONE STEEL & WIRE COMPANY¹

Sales.....	7,912	10,599	12,164	9,649
Gross profits.....	3,214	3,846	3,716	2,983
Net income.....	1,455	1,828	1,477	929
Profit rate.....	15.60	18.79	15.22	9.77
Equity ratio.....	7.81	2.70	2.91	3.56
Federal corporate income tax.....	168	272	207	121
Undistributed profits tax.....			32	3
Federal capital stock tax.....	9	14	14	10
Federal excises.....	2	1	1	2
Federal-State payroll taxes.....			74	102
State income taxes.....			X	1
State sales taxes.....			1	1
Property taxes.....	36	46	46	47
State corporate taxes.....	3	4	3	2
Miscellaneous.....		15		
Total taxes.....	218	352	378	289

¹ Fiscal year basis.

KINGSBURY BREWERIES COMPANY

Sales.....		1,697	1,911
Gross profits.....		1,209	1,306
Net income.....		57	(1)
Profit rate.....		4.80	(0.10)
Equity ratio.....		1.12	1.04
Federal corporate income tax.....		31	
Undistributed profits tax.....			
Federal capital stock tax.....		2	2
Federal excises.....		595	663
Federal-State payroll taxes.....			10
State income taxes.....		27	
State sales taxes.....		89	107
Property taxes.....		14	18
State corporate taxes.....		1	1
Miscellaneous.....			
Total taxes.....		759	801

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

KINGSPORT PRESS, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales	1,352	1,875	1,924	2,558
Gross profits	428	548	647	844
Net income	35	80	115	200
Profit rate	1.53	3.54	5.17	8.81
Equity ratio	2.29	2.74	2.72	2.65
Federal corporate income tax		7	14	32
Undistributed profits tax			13	17
Federal capital stock tax	X 1	1	2	2
Federal excises				
Federal-State payroll taxes			9	33
State income taxes		X		2
State sales taxes				
Property taxes	15	15	16	17
State corporate taxes	X	2	3	2
Miscellaneous				
Total taxes	16	25	57	105

D. EMIL KLEIN COMPANY, INCORPORATED

Sales	2,445	2,530	2,691	2,873
Gross profits	818	858	914	895
Net income	113	336	305	288
Profit rate	18.85	19.77	18.73	20.08
Equity ratio	40.83	38.27	33.84	28.12
Federal corporate income tax	38	40	36	34
Undistributed profits tax			3	5
Federal capital stock tax	3	3	4	3
Federal excises	191	198	175	189
Federal-State payroll taxes			8	26
State income taxes	5	6	9	7
State sales taxes				
Property taxes	5	4	4	5
State corporate taxes				1
Miscellaneous	X	X	X	X
Total taxes	242	251	239	270

KNAPP MONARCH COMPANY

Sales	1,166	2,046	2,754	3,424
Gross profits	289	466	760	940
Net income	(39)	85	246	279
Profit rate	(531)	12.81	25.30	24.48
Equity ratio	2.13	1.29	2.11	2.20
Federal corporate income tax		7	34	41
Undistributed profits tax			17	35
Federal capital stock tax	1	1	2	2
Federal excises				X
Federal-State payroll taxes			8	30
State income taxes		X	2	2
State sales taxes		X	1	1
Property taxes	3	2	6	6
State corporate taxes	X	X	1	X
Miscellaneous				X
Total taxes	4	10		117

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

S. S. KRESGE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	137,667	138,340	149,253	155,205
Gross profits.....	54,370	53,899	58,498	61,142
Net income.....	12,623	12,621	14,065	13,709
Profit rate.....	11.12	11.58	13.02	12.45
Equity ratio.....	3.53	5.85	5.87	6.63
Federal corporate income tax.....	1,639	1,537	2,035	2,022
Undistributed profits tax.....			500	625
Federal capital stock tax.....	171	223	123	178
Federal excises.....				
Federal-State payroll taxes.....			249	741
State income taxes.....	91	133	249	274
State sales taxes.....	1,210	1,422	2,121	2,228
Property taxes.....	2,669	2,626	2,779	2,780
State corporate taxes.....	110	189	202	183
Miscellaneous.....	61	22	8	15
Total taxes.....	5,951	6,152	8,266	9,046

KRESGE DEPARTMENT STORES

	1934	1935	1936	1937
Sales.....	4,223	4,776	5,500	5,127
Gross profits.....	925	1,122	1,398	1,258
Net income.....	102	174	349	137
Profit rate.....	2.06	3.79	9.47	3.36
Equity ratio.....	14.29	12.56	9.01	17.02
Federal corporate income tax.....	13	34	53	24
Undistributed profits tax.....			5	4
Federal capital stock tax.....	1	4	4	2
Federal excises.....				
Federal-State payroll taxes.....			12	33
State income taxes.....	X	X	X	X
State sales taxes.....				4
Property taxes.....	47	47	21	25
State corporate taxes.....		X	X	1
Miscellaneous.....	X	1	2	1
Total taxes.....	61	86	97	94

S. H. KRESS AND COMPANY

	1934	1935	1936	1937
Sales.....	75,662	78,479	86,768	87,871
Gross profits.....	22,944	23,382	25,697	25,566
Net income.....	6,955	6,737	7,185	7,251
Profit rate.....	10.54	10.00	10.47	10.32
Equity ratio.....	21.44	21.89	13.94	12.55
Federal corporate income tax.....	995	944	1,220	1,167
Undistributed profits tax.....			98	191
Federal capital stock tax.....	66	71	107	110
Federal excises.....	6	3	2	2
Federal-State payroll taxes.....			114	345
State income taxes.....	72	124	209	176
State sales taxes.....	624	899	1,109	1,322
Property taxes.....	906	923	1,030	1,130
State corporate taxes.....	13	17	21	39
Miscellaneous.....	30	34	95	38
Total taxes.....	2,712	3,015	4,005	4,520

--- indicate no data available.

X indicates less than \$1,000.

KROGER GROCERY AND BAKING COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	221,175	229,906	242,273	218,444
Gross profits.....	52,838	52,930	51,376	54,365
Net income.....	4,791	4,590	3,997	3,280
Profit rate.....	10.11	9.39	8.18	6.71
Equity ratio.....	6.30	7.08	5.89	6.60
Federal corporate income tax.....	588	552	507	430
Undistributed profits tax.....				
Federal capital stock tax.....	46	47	56	53
Federal excises.....	598	134		
Federal-State payroll taxes.....			339	1,069
State income taxes.....	11	22	17	14
State sales taxes.....	2,852	4,100	4,108	3,433
Property taxes.....	510	507	590	591
State corporate taxes.....	662	686	701	698
Miscellaneous.....	32	18	X	X
Total taxes.....	5,299	6,066	6,318	6,288

LACLEDE STEEL COMPANY

Sales.....	4,169	5,250	8,398	9,999
Gross profits.....	1,272	1,561	2,245	2,678
Net income.....	189	309	309	577
Profit rate.....	1.85	3.97	4.16	7.83
Equity ratio.....	6.72	4.99	3.55	4.97
Federal corporate income tax.....	23	40	36	86
Undistributed profits tax.....			3	3
Federal capital stock tax.....	4	5	5	7
Federal excises.....	1	1	1	1
Federal-State payroll taxes.....			76	131
State income taxes.....	2	3	3	6
State sales taxes.....	4	9	11	17
Property taxes.....	15	16	17	19
State corporate taxes.....	4	3	4	2
Miscellaneous.....				
Total taxes.....	53	77	156	272

LAKEY FOUNDRY & MACHINE COMPANY

Sales.....		1,235	2,325	4,117
Gross profits.....		62	394	718
Net income.....		(196)	51	175
Profit rate.....		(6.69)	3.79	12.29
Equity ratio.....		1.79	2.85	2.52
Federal corporate income tax.....			1	21
Undistributed profits tax.....				9
Federal capital stock tax.....		X	2	2
Federal excises.....				
Federal-State payroll taxes.....			12	58
State income taxes.....				
State sales taxes.....				
Property taxes.....		10	11	12
State corporate taxes.....		3	3	3
Miscellaneous.....				
Total taxes.....		13	29	105

— indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

LAMSON AND SESSIONS CO.

[\$000's]

	1934	1935	1936	1937
Sales.....			5,932	7,858
Gross profits.....	831	831	1,415	2,240
Net income.....	(63)	(152)	307	833
Profit rate.....	(1.26)	(2.73)	5.36	13.52
Equity ratio.....	3.76	2.86	2.62	4.45
Federal corporate income tax.....			20	128
Undistributed profits tax.....				
Federal capital stock tax.....	5	4	6	6
Federal excises.....			19	68
Federal-State payroll taxes.....			1	4
State income taxes.....			2	2
State sales taxes.....	1	1		
Property taxes.....	67	52	63	61
State corporate taxes.....	4	4	3	5
Miscellaneous.....				
Total taxes.....	77	61	114	274

LANDIS MACHINE COMPANY

Sales.....	916	1,087	1,106	1,135
Gross profits.....	509	607	598	613
Net income.....	111	170	120	129
Profit rate.....	4.38	6.66	4.90	5.25
Equity Ratio.....	6.06	6.85	14.74	15.38
Federal corporate income tax.....	12	23	19	22
Undistributed profits tax.....				
Federal capital stock tax.....			2	2
Federal excises.....				
Federal-State payroll taxes.....			4	13
State income taxes.....				
State sales taxes.....	5	5	5	5
Property taxes.....	9	9	9	9
State corporate taxes.....	4	5	4	3
Miscellaneous.....				
Total taxes.....	30	42	43	54

LANE BRYANT, INC.¹

Sales.....	12,754	13,296	14,614	14,111
Gross profits.....	3,017	3,147	3,483	3,186
Net income.....	162	318	392	2
Profit rate.....	3.48	6.90	8.53	0.04
Equity ratio.....	1.42	1.39	1.35	1.44
Federal corporate income tax.....		9	31	43
Undistributed profits tax.....			X	3
Federal capital stock tax.....		7	9	9
Federal excises.....		2	1	2
Federal-State payroll taxes.....			14	60
State income taxes.....		11	14	10
State sales taxes.....		29	6	7
Property taxes.....		52	51	46
State corporate taxes.....		4	3	5
Miscellaneous.....		1	1	X
Total taxes.....		115	130	185

¹ Fiscal year basis. Year ended May 31.

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

LANGENDORF UNITED BAKERIES INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	5,091	6,636	7,718	8,487
Gross profits.....	2,145	2,406	2,765	3,440
Net income.....	32	5	169	436
Profit rate.....	99	14	5.58	14.85
Equity ratio.....	3.30	3.10	2.69	3.02
Federal corporate income tax.....	7		4	56
Undistributed profits tax.....				8
Federal capital stock tax.....	3	3	4	4
Federal excises.....				
Federal-State payroll taxes.....			46	92
State income taxes.....	6	3	2	6
State sales taxes.....	1	2	2	1
Property taxes.....	28	29	29	31
State corporate taxes.....	X			
Miscellaneous.....	10	26	15	15
Total taxes.....	55	63	102	213

LANSTON MONOTYPE MACHINE CO.¹

Sales.....			2,353	2,227
Gross profits.....			1,261	1,296
Net income.....			302	277
Profit rate.....			3.41	3.16
Equity ratio.....			57.76	55.11
Federal corporate income tax.....	15	38	43	38
Undistributed profits tax.....				
Federal capital stock tax.....	5	6	6	6
Federal excises.....				
Federal-State payroll taxes.....		2	15	37
State income taxes.....		10	14	9
State sales taxes.....				
Property taxes.....	15	15	13	13
State corporate taxes.....	1	12	17	17
Miscellaneous.....	8	9	9	9
Total taxes.....	44	92	117	129

¹ Fiscal year ended Feb. 28.

LEATH AND COMPANY

Sales.....	1,552	1,988	2,451	2,723
Gross profits.....	680	879	1,113	1,223
Net income.....	26	129	274	274
Profit rate.....	2.50	11.52	22.44	20.82
Equity ratio.....	10.05	9.13	6.99	7.75
Federal corporate income tax.....	2	22	41	43
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	5	4
Federal excises.....				
Federal-State payroll taxes.....			5	14
State income taxes.....		X	7	5
State sales taxes.....	X	1	1	1
Property taxes.....	6	6	8	11
State corporate taxes.....	1	1	3	2
Miscellaneous.....		2		
Total taxes.....	11	34	70	80

.... indicate no data available.

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() indicate deficit.

LEE RUBBER AND TIRE CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....		8,128	10,197	13,268
Gross profits.....		2,668	3,217	3,655
Net income.....		208	657	716
Profit rate.....		2.62	7.85	8.37
Equity ratio.....		12.43	8.87	8.10
Federal corporate income tax.....		21	89	99
Undistributed profits tax.....				18
Federal capital stock tax.....		3	14	7
Federal excises.....		326	402	502
Federal-State payroll taxes.....			24	88
State income taxes.....		X	9	17
State sales taxes.....		1	1	2
Property taxes.....		21	23	24
State corporate taxes.....		4	21	30
Miscellaneous.....		X		
Total taxes.....		376	583	787

LEHIGH PORTLAND CEMENT COMPANY

Sales.....	9,492	9,002	12,779	12,401
Gross profits.....	5,032	4,672	7,137	6,342
Net income.....	954	496	2,516	1,353
Profit rate.....	2.34	1.40	7.37	3.97
Equity ratio.....	59.81	65.95	32.87	47.37
Federal corporate income tax.....	105		355	102
Undistributed profits tax.....				
Federal capital stock tax.....	29	35	32	35
Federal excises.....	2	X		
Federal-State payroll taxes.....			40	143
State income taxes.....	11	12	82	32
State sales taxes.....	7	4	7	2
Property taxes.....	225	227	221	215
State corporate taxes.....	30	38	55	35
Miscellaneous.....				
Total taxes.....	409	316	792	564

THE LELAND ELECTRIC CO.

Sales.....	972	1,493	2,427	3,308
Gross profits.....	245	485	694	939
Net income.....	(52)	32	95	163
Profit rate.....	(7.89)	3.81	10.41	16.43
Equity ratio.....	4.10	2.71	1.41	1.85
Federal corporate income tax.....			7	15
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	2	2
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			10	42
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	9	7	8	9
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	11	9	28	69

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

LERNER STORES CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales	30,434	32,216	37,178	39,551
Gross profits	8,934	9,389	10,930	11,549
Net income	2,101	2,266	2,737	2,552
Profit rate	31.57	31.23	28.64	23.72
Equity ratio	2.61	2.65	3.29	3.40
Federal corporate income tax	274	330	398	365
Undistributed profits tax			110	129
Federal capital stock tax	15	16	39	42
Federal excise				
Federal-State payroll taxes			33	128
State income taxes	41	45	67	86
State sales taxes			16	19
Property taxes	210	188	225	257
State corporate taxes	X	X	X	X
Miscellaneous				
Total taxes	540	579	883	1,027

LE ROI COMPANY

Sales			2,169	2,556
Gross profits			558	686
Net income			248	225
Profit rate			17.37	15.23
Equity ratio			4.80	3.07
Federal corporate income tax			35	32
Undistributed profits tax			38	15
Federal capital stock tax			2	2
Federal excises				
Federal-State payroll taxes			12	31
State income taxes			13	10
State sales taxes			X	X
Property taxes			32	38
State corporate taxes				
Miscellaneous				
Total taxes			132	128

LIBBY McNEILL AND LIBBY

Sales	56,142	59,876	74,392	74,716
Gross profits	13,646	14,170	17,635	16,582
Net income	4,280	4,284	6,013	3,987
Profit rate	11.30	10.59	13.86	8.95
Equity ratio	1.56	1.39	1.60	1.38
Federal corporate income tax	48	420	354	892
Undistributed profit tax				
Federal capital stock tax	29	32	36	40
Federal excises				
Federal-State payroll taxes			111	412
State income taxes	X	91	66	69
State sales taxes	2	82	119	154
Property taxes	328	318	290	314
State corporate taxes	113	136	92	173
Miscellaneous	13	22	14	12
Total taxes	533	1,101	1,082	2,066

... indicate no data available.

X indicates less than \$1,000.

LIBBEY-OWENS-FORD GLASS COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		35,900	44,712	43,791
Gross profits.....	9,066	16,189	20,393	21,752
Net income.....	3,637	9,568	12,880	12,719
Profit rate.....	12.5	27.51	34.68	33.49
Equity ratio.....	17.84	9.79	8.29	8.40
Federal corporate income tax.....	486	1,292	1,980	1,911
Undistributed profits tax.....			254	64
Federal capital stock tax.....	58	130	135	100
Federal excises.....				
Federal-State payroll taxes.....			131	404
State income taxes.....			17	23
State sales taxes.....	22	28	30	33
Property taxes.....	169	173	184	205
State corporate taxes.....	24	23	27	29
Miscellaneous.....				
Total taxes.....	759	1,646	2,758	2,769

LIFE SAVERS CORPORATION

Sales.....	2,990	3,331	3,626	4,079
Gross profits.....	2,234	2,457	2,676	2,970
Net income.....	931	937	1,019	1,217
Profit rate.....	30.26	28.13	30.84	35.82
Equity ratio.....	12.68	13.52	9.78	9.08
Federal corporate income tax.....	115	115	156	182
Undistributed profits tax.....			7	4
Federal capital stock tax.....	7	12	20	11
Federal excises.....	17	1	X	X
Federal-State payroll taxes.....			5	17
State income taxes.....	28	31	42	52
State sales taxes.....				X
Property taxes.....	15	12	13	14
State corporate taxes.....	1	1	1	3
Miscellaneous.....				
Total taxes.....	183	172	244	283

LIMA LOCOMOTIVE WORKS INCORP.

Sales.....	2,037	2,541	4,497	10,766
Gross profits.....	241	334	959	3,181
Net income.....	(491)	(539)	(247)	1,317
Profit rate.....	(4.81)	(7.57)	(3.28)	13.94
Equity ratio.....	65.64	21.81	5.58	16.71
Federal corporate income tax.....	0	0	0	203
Undistributed profits tax.....			0	88
Federal capital stock tax.....	11	13	11	14
Federal excises.....				
Federal-State payroll taxes.....			16	81
State income taxes.....	0	X	X	X
State sales taxes.....				
Property taxes.....	59	50	55	57
State corporate taxes.....	8	11	11	11
Miscellaneous.....				
Total taxes.....	78	74	93	454

--- Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

LINK BELT COMPANY

[\$800's]

	1934	1935	1936	1937
Sales.....	10,378	14,093	20,789	26,644
Gross profits.....	4,685	5,882	7,997	10,600
Net income.....	961	1,260	2,628	4,054
Profit rate.....	5.76	7.43	14.87	21.52
Equity ratio.....	20.36	14.17	9.21	6.95
Federal corporate income tax.....	90	156	391	704
Undistributed profits tax.....			13	111
Federal capital stock tax.....	16	16	20	21
Federal excises.....	3	3		2
Federal-State payroll taxes.....			76	299
State income taxes.....		8	13	40
State sales taxes.....	9	18	51	43
Property taxes.....	98	138	149	177
State corporate taxes.....	3	4	18	16
Miscellaneous.....				
Total taxes.....	219	343	733	1,413

LION OIL REFINING COMPANY

	1934	1935	1936	1937
Sales.....	6,021	7,120	9,429	10,555
Gross profits.....	1,976	2,250	3,194	4,856
Net income.....	61	(11)	687	1,308
Profit rate.....	1.07	(0.19)	9.08	11.12
Equity ratio.....	3.14	2.81	4.93	1.44
Federal corporate income tax.....				121
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	9	9
Federal excises.....	15	17	14	19
Federal-State payroll taxes.....			15	36
State income taxes.....				22
State sales taxes.....	25	27	91	108
Property taxes.....	31	29	50	47
State corporate taxes.....	6	9	9	25
Miscellaneous.....	X	X	1	4
Total taxes.....	83	87	189	391

THE LIQUID CARBONIC CORPORATION

	1934	1935	1936	1937
Sales.....		11,013	13,706	18,327
Gross profits.....		5,858	6,996	8,971
Net income.....		1,093	1,342	2,121
Profit rate.....		6.98	8.35	10.65
Equity ratio.....		12.96	10.67	3.08
Federal corporate income tax.....		160	190	289
Undistributed profits tax.....				25
Federal capital stock tax.....		16	17	18
Federal excises.....				
Federal-State payroll taxes.....		X	50	155
State income taxes.....		10	12	26
State sales taxes.....		23	42	67
Property taxes.....		95	114	119
State corporate taxes.....		14	16	21
Miscellaneous.....				X
Total taxes.....		318	441	720

---- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE LOCKE STEEL CHAIN CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		771	839	988
Gross profits.....		363	360	455
Net income.....		217	238	271
Profit rate.....		34.56	37.26	38.78
Equity ratio.....		7.28	5.94	6.86
Federal corporate income tax.....		42	36	41
Undistributed profits tax.....			6	8
Federal capital stock tax.....		2	2	3
Federal excises.....		0	0	0
Federal-State payroll taxes.....			4	8
State income taxes.....		5	5	5
State sales taxes.....		0	0	0
Property taxes.....		7	9	10
State corporate taxes.....		0	0	0
Miscellaneous.....		1		
Total taxes.....		57	62	75

LOCKHEED AIRCRAFT CORP.

Sales.....	563	2,097	2,007	5,210
Gross profits.....	(27)	642	507	1,198
Net income.....	(188)	270	149	212
Profit rate.....	(52.44)	37.85	6.11	8.47
Equity ratio.....	1.34	4.14	4.20	1.02
Federal corporate income tax.....		49	21	30
Undistributed profits tax.....			26	37
Federal capital stock tax.....		1	11	10
Federal excises.....				
Federal-State payroll taxes.....			11	78
State income taxes.....		X	4	6
State sales taxes.....	1	X		
Property taxes.....	2	4	7	16
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	3	54	80	177

LON \ STAR CEMENT CORPORATION

Sales.....	13,649	14,085	18,516	21,252
Gross profits.....	8,207	8,439	10,865	11,649
Net income.....	1,863	2,123	3,743	4,565
Profit rate.....	3.71	4.92	8.52	10.40
Equity ratio.....	1.71	2.34	19.33	24.20
Federal corporate income tax.....	195	118	422	502
Undistributed profits tax.....			111	13
Federal capital stock tax.....	25	29	53	43
Federal excises.....	3	2	2	2
Federal-State payroll taxes.....			28	95
State income taxes.....	23	11	31	15
State sales taxes.....	54	55	71	89
Property taxes.....	212	211	215	210
State corporate taxes.....	30	23	43	33
Miscellaneous.....	20	12	14	
Total taxes.....	562	461	990	1,002

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

LOOSE-WILES BISCUIT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	33,245	36,897	39,009	42,462
Gross profits.....	14,789	15,505	16,479	17,180
Net income.....	1,891	1,729	1,665	988
Profit rate.....	7.42	6.54	6.28	3.79
Equity ratio.....	20.96	20.28	19.49	11.60
Federal corporate income tax.....	263	268	268	217
Undistributed profits tax.....			47	17
Federal capital stock tax.....	27	36	30	39
Federal excises.....				
Federal-State payroll taxes.....			130	419
State income taxes.....	30	34	32	49
State sales taxes.....	6		9	7
Property taxes.....	238		261	256
State corporate taxes.....	16		30	37
Miscellaneous.....		311		
Total taxes.....	580	649	807	1,041

P. LORILLARD COMPANY

Sales.....	59,175	59,155	67,128	75,963
Gross profits.....	13,608	15,685	18,211	19,169
Net income.....	4,224	4,322	4,766	3,375
Profit rate.....	7.36	7.67	8.70	4.23
Equity ratio.....	2.31	2.76	3.09	3.07
Federal corporate income tax.....	489	434	493	375
Undistributed profits tax.....				X
Federal capital stock tax.....	50	58	67	58
Federal excises.....	25,038	23,830	27,358	31,388
Federal-State payroll taxes.....			72	218
State income taxes.....	1	17	25	36
State sales taxes.....		4	X	X
Property taxes.....	234	313	333	321
State corporate taxes.....	91	72	26	92
Miscellaneous.....	21	18	3	5
Total taxes.....	25,924	24,746	28,377	32,493

LYONS MAGNUS INCORPORATED

Sales.....	2,553	2,625	2,356	2,446
Gross profits.....	868	797	731	810
Net income.....	124	92	55	59
Profit rate.....	9.60	6.97	4.13	4.39
Equity ratio.....	5.96	7.79	7.36	10.89
Federal corporate income tax.....	16	9	3	5
Undistributed profits tax.....				
Federal capital stock tax.....	X	2	2	1
Federal excises.....				
Federal-State payroll taxes.....			5	17
State income taxes.....	X	2	5	1
State sales taxes.....	1			
Property taxes.....	9	9	11	13
State corporate taxes.....	1	1	1	1
Miscellaneous.....	3	2	3	3
Total taxes.....	32	25	30	41

indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

McALEER MANUFACTURING COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	699	814	820	1,020
Gross profits.....	303	284	302	301
Net income.....	1	39	(41)	(23)
Profit rate.....	0.35	14.46	(13.60)	(8.40)
Equity ratio.....	1.71	3.46	2.20	.78
Federal corporate income tax.....	2	5		
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	1	1
Federal excises.....				5
Federal-State payroll taxes.....			2	6
State income taxes.....				
State sales taxes.....				
Property taxes.....	4	4	3	7
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	8	11	7	20

McCALL CORPORATION

Sales.....	11,066	10,897	11,788	12,242
Gross profits.....	5,948	5,726	6,032	5,680
Net income.....	1,360	1,340	1,414	781
Profit rate.....	9.49	9.33	9.88	5.59
Equity ratio.....	11.07	14.68	11.64	13.12
Federal corporate income tax.....	175	125	227	107
Undistributed profits tax.....				X
Federal capital stock tax.....	25	29	35	21
Federal excises.....				
Federal-State payroll taxes.....			35	109
State income taxes.....	7	9	15	13
State sales taxes.....	X	1	4	7
Property taxes.....	62	54	51	60
State corporate taxes.....	5	5	5	4
Miscellaneous.....				
Total taxes.....	274	223	372	321

McCRORY STORES CORPORATION

Sales.....			40,235	41,001
Gross profits.....			13,772	14,734
Net income.....			2,630	2,709
Profit rate.....			15.57	14.61
Equity ratio.....			1.36	1.68
Federal corporate income tax.....				251
Undistributed profits tax.....				
Federal capital stock tax.....			45	35
Federal excises.....				
Federal-State payroll taxes.....			55	170
State income taxes.....			25	67
State sales taxes.....			67	74
Property taxes.....			588	586
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....			780	1,183

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18339

MCGRAW-HILL PUBLISHING CO., INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	6,911	8,321	10,097	12,101
Gross profits.....	2,920	4,321	5,583	6,734
Net income.....	604	975	1,435	1,661
Profit rate.....	3.53	5.67	8.36	9.35
Equity ratio.....	1.56	1.66	1.86	2.20
Federal corporate income tax.....	21	68	115	240
Undistributed profits tax.....			55	
Federal capital stock tax.....	8	10	15	18
Federal excises.....				
Federal-State payroll taxes.....			23	87
State income taxes.....	8	10	9	37
State sales taxes.....	3	4	9	7
Property taxes.....	104	103	98	93
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	144	195	324	482

THE MCKAY MACHINE COMPANY

Sales.....		604	1,007	1,013
Gross profits.....		202	362	319
Net income.....		114	195	156
Profit rate.....		40.97	57.82	42.20
Equity ratio.....		2.73	2.53	1.85
Federal corporate income tax.....		19	29	22
Undistributed profits tax.....			8	4
Federal capital stock tax.....		X	3	2
Federal excises.....				
Federal-State payroll taxes.....			3	10
State income taxes.....				
State sales taxes.....				
Property taxes.....		2	2	3
State corporate taxes.....		X	X	X
Miscellaneous.....		X		
Total taxes.....		21	45	41

MCLELLAN STORES COMPANY

Sales.....			21,992	22,615
Gross profits.....			7,489	7,886
Net income.....			1,383	1,196
Profit rate.....			23.81	18.27
Equity ratio.....			4.91	6.89
Federal corporate income tax.....			157	63
Undistributed profits tax.....				
Federal capital stock tax.....			20	20
Federal excises.....				
Federal-State payroll taxes.....			21	102
State income taxes.....			9	19
State sales taxes.....			26	27
Property taxes.....			94	103
State corporate taxes.....			8	14
Miscellaneous.....				
Total taxes.....			335	348

..... indicate no data available.

X indicates less than \$1,000.

McQUAY NORRIS MANUFACTURING CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	4,383	4,289	4,745	4,831
Gross profits.....	1,996	2,055	2,213	2,166
Net income.....	637	607	641	413
Profit rate.....	15.51	14.19	14.59	9.48
Equity ratio.....	12.55	12.58	13.66	9.84
Federal corporate income tax.....	81	72	82	52
Undistributed profits tax.....			4	7
Federal capital stock tax.....	4	10	12	10
Federal excises.....	57	54	63	61
Federal-State payroll taxes.....			19	56
State income taxes.....	6	6	8	4
State sales taxes.....	X	X	X	X
Property taxes.....	16	18	20	17
State corporate taxes.....	11	9	12	12
Miscellaneous.....	X		X	
Total taxes.....	175	169	220	219

R. H. MACY & CO. INC.

Sales.....	118,211	117,841	130,441	135,868
Gross profits.....	30,667	29,790	33,955	35,486
Net income.....	4,602	4,181	6,251	5,668
Profit rate.....	5.45	5.06	7.51	6.43
Equity ratio.....	4.74	5.53	3.06	3.83
Federal corporate income tax.....	443	316	637	587
Undistributed profits tax.....				
Federal capital stock tax.....	54	77	67	80
Federal excises.....				
Federal-State payroll taxes.....		14	191	539
State income taxes.....	146	131	118	236
State sales taxes.....	288	73	99	79
Property taxes.....	761	748	719	737
State corporate taxes.....	22	22	22	22
Miscellaneous.....	10	4	23	90
Total taxes.....	1,724	1,385	1,876	2,370

MAGNOVOX COMPANY LTD.

Sales.....	2,164	2,292	3,091	
Gross profits.....	481	412	505	
Net income.....	20	(53)	(61)	(320)
Profit rate.....	1.38	(3.85)	(5.11)	(37.78)
Equity ratio.....	5.84	4.15	2.99	75.84
Federal corporate income tax.....	16		1	4
Undistributed profits tax.....				
Federal capital stock tax.....	2	3	2	3
Federal excises.....	3	2	X	
Federal-State payroll taxes.....			13	32
State income taxes.....	X	X	X	X
State sales taxes.....	1	1	1	3
Property taxes.....	12	9	9	7
State corporate taxes.....	3	X	4	X
Miscellaneous.....	X	X		
Total taxes.....	37	15	30	49

- - - - - Indicate no data available.

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() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18341

I. MAGNIN AND COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	7,915	8,989	10,289	10,659
Gross profits.....	2,056	2,419	3,773	3,910
Net income.....	282	428	706	556
Profit rate.....	8.47	12.30	18.60	14.11
Equity ratio.....	3.75	3.42	3.41	3.86
Federal corporate income tax.....	24	53	91	70
Undistributed profits tax.....				
Federal capital stock tax.....	4		15	8
Federal excises.....			1	1
Federal-State payroll taxes.....			22	49
State income taxes.....	7	11	16	24
State sales taxes.....	2		2	2
Property taxes.....	23	22	25	30
State corporate taxes.....				
Miscellaneous.....	2	3	1	1
Total taxes.....	62	89	173	185

MAPES CONSOLIDATED MANUFACTURING CO.

Sales.....	1,309	1,140	1,182	1,380
Gross profits.....	800	657	608	672
Net income.....	411	334	318	422
Profit rate.....	32.26	22.98	21.59	28.69
Equity ratio.....	4.16	13.65	18.86	16.86
Federal corporate income tax.....	54	43	43	56
Undistributed profits tax.....			1	
Federal capital stock tax.....	4	4	4	4
Federal excises.....				
Federal-State payroll taxes.....			1	2
State income taxes.....				
State sales taxes.....				
Property taxes.....	3	2	2	2
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	61	49	51	67

MARCHANT CALCULATING MACHINE CO.

Sales.....	1,327	2,120	3,428	4,211
Gross profits.....	1,039	1,661	2,680	3,211
Net income.....	102	476	778	911
Profit rate.....	9.74	33.46	37.84	45.11
Equity ratio.....	11.89	5.83	6.12	5.11
Federal corporate income tax.....		81	116	171
Undistributed profits tax.....			4	10
Federal capital stock tax.....	1	1	8	9
Federal excises.....				
Federal-State payroll taxes.....			20	37
State income taxes.....			6	2
State sales taxes.....		5	5	7
Property taxes.....	3	3	3	4
State corporate taxes.....	3	3	2	3
Miscellaneous.....				
Total taxes.....	7	93	164	237

--- indicate no data available.
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THE MARION STEAM SHOVEL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	2,815		4,336	6,175
Gross profits.....	464	528	958	1,720
Net income.....	(68)	6	252	651
Profit rate.....	(0.87)	0.08	3.43	8.82
Equity ratio.....	1.77	1.68	1.51	1.81
Federal corporate income tax.....				42
Undistributed profits tax.....				50
Federal capital stock tax.....	1	1	4	3
Federal excises.....	X	X		
Federal-State payroll taxes.....			19	65
State income taxes.....				X
State sales taxes.....				
Property taxes.....	46	40	50	51
State corporate taxes.....	4	4	4	6
Miscellaneous.....				
Total taxes.....	51	45	77	217

THE GLENN L. MARTIN COMPANY

Sales.....			6,219	7,839
Gross profits.....			1,355	2,179
Net income.....			989	1,451
Profit rate.....			13.02	16.56
Equity ratio.....			2.84	2.10
Federal corporate income tax.....			9	225
Undistributed profits tax.....				8
Federal capital stock tax.....			8	18
Federal excises.....		X		X
Federal-State payroll taxes.....			21	104
State income taxes.....				6
State sales taxes.....		X		
Property taxes.....			15	18
State corporate taxes.....		X		X
Miscellaneous.....			7	X
Total taxes.....			60	379

MASCO SCREW PRODUCTS COMPANY

Sales.....		162	235	477
Gross profits.....		48	88	155
Net income.....		25	51	84
Profit rate.....		109.26	17.20	22.56
Equity ratio.....		.81	9.08	12.53
Federal corporate income tax.....		5	8	14
Undistributed profits tax.....			4	2
Federal capital stock tax.....		1	1	1
Federal excises.....				
Federal-State payroll taxes.....			1	4
State income taxes.....				1
State sales taxes.....				
Property taxes.....		1	1	5
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		7	15	27

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

MASONITE CORPORATION¹

[\$000's]

	1934	1935	1936	1937
Sales.....			5,421	7,084
Gross profits.....		2,705	3,599	4,495
Net income.....		1,245	1,718	2,131
Profit rate.....		38.16	43.66	43.96
Equity ratio.....		6.91	4.49	4.40
Federal corporate income tax.....		162	231	313
Undistributed profits tax.....				9
Federal capital stock tax.....		10	26	26
Federal excises.....				
Federal-State payroll taxes.....			11	46
State income taxes.....		41	57	81
State sales taxes.....		10	13	18
Property taxes.....		33	36	46
State corporate taxes.....		3	3	3
Miscellaneous.....				X
Total taxes.....		259	377	542

¹ Fiscal year ended Aug. 31.

MASTER ELECTRIC CO.

Sales.....		2,074	3,219	4,605
Gross profits.....		870	1,459	2,000
Net income.....		268	586	787
Profit rate.....		21.06	34.36	37.78
Equity ratio.....		3.82	4.64	6.49
Federal corporate income tax.....		34	91	133
Undistributed profits tax.....			55	48
Federal capital stock tax.....		91	5	6
Federal excises.....		1	1	X
Federal-State payroll taxes.....			15	59
State income taxes.....		X	X	X
State sales taxes.....		X	1	1
Property taxes.....		11	10	13
State corporate taxes.....		2	1	5
Miscellaneous.....				
Total taxes.....		59	179	265

THE MAYTAG COMPANY

Sales.....	14,717	16,351	16,748	16,985
Gross profits.....	2,590	3,370	6,309	6,106
Net income.....	2,305	3,005	3,327	2,718
Profit rate.....	23.66	30.10	41.52	32.37
Equity ratio.....	13.58	8.17	6.01	9.14
Federal corporate income tax.....	297	414	490	389
Undistributed profits tax.....			11	27
Federal capital stock tax.....	23	47	45	25
Federal excises.....	1	X		X
Federal-State payroll taxes.....			36	123
State income taxes.....	7	10	9	7
State sales taxes.....	1	1	X	1
Property taxes.....	51	62	71	85
State corporate taxes.....	9	9	7	9
Miscellaneous.....	1	X	X	1
Total taxes.....	390	543	670	667

... indicate no data available.

X Indicates less than \$1,000.

THE MEAD CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	12, 147	13, 969	19, 153	25, 373
Gross profits.....	3, 816	4, 265	5, 338	7, 103
Net income.....	680	1, 162	1, 694	2, 782
Profit rate.....	2. 52	4. 35	6. 27	8. 90
Equity ratio.....	1. 97	2. 15	1. 92	2. 57
Federal corporate income tax.....	77	95	206	360
Undistributed profits tax.....			1	47
Federal capital stock tax.....	16	15	17	20
Federal excises.....				
Federal-State payroll taxes.....			31	169
State income taxes.....	9	12	18	30
State sales taxes.....				
Property taxes.....	146	156	172	198
State corporate taxes.....	18	21	29	49
Miscellaneous.....				
Total taxes.....	266	302	474	873

MEIER & FRANK COMPANY, INCORPORATED ¹

Sales.....			16, 162	16, 393
Gross profits.....			5, 509	5, 586
Net income.....			1, 184	1, 225
Profit rate.....			7. 80	8. 93
Equity ratio.....			13. 14	11. 61
Federal corporate income tax.....			176	170
Undistributed profits tax.....			86	34
Federal capital stock tax.....			20	14
Federal excises.....				
Federal-State payroll taxes.....			37	91
State income taxes.....			45	32
State sales taxes.....				
Property taxes.....			246	237
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			610	578

¹ Fiscal year ended Jan. 31.

MENASCO MFG. CO.

Sales.....		102	161	176
Gross profits.....		68	55	21
Net income.....		13	(23)	(93)
Profit rate.....		4. 16	(4. 34)	(21. 29)
Equity ratio.....		11. 05	8. 41	2. 87
Federal corporate income tax.....		2		
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	1	1
Federal excises.....				
Federal-State payroll taxes.....			5	7
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	2	3	6	8
State corporate taxes.....				
Miscellaneous.....		1		
Total taxes.....	2	6	12	16

--- indicate no data available.

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() indicate deficit.

MERGENTHALER LINOTYPE COMPANY

[\$000's]

	1931	1935	1936	1937
Sales.....		4,934	7,257	8,755
Gross profits.....		2,549	3,917	4,370
Net income.....		70	747	673
Profit rate.....		.32	2.29	3.05
Equity ratio.....		222.62	111.38	106.32
Federal corporate income tax.....			64	32
Undistributed profits tax.....				12
Federal capital stock tax.....	22	23	23	23
Federal excises.....	1	X	X	1
Federal-State payroll taxes.....			30	121
State income taxes.....	20	18	17	18
State sales taxes.....	1	1	1	3
Property taxes.....	74	78	69	74
State corporate taxes.....	1	X	1	4
Miscellaneous.....	X	X	X	X
Total taxes.....	119	120	205	288

MESTA MACHINE COMPANY

Sales.....				
Gross profits.....	2,862	5,761	7,831	8,702
Net income.....	1,776	3,996	5,518	6,021
Profit rate.....	22.52	43.09	57.55	57.20
Equity ratio.....	3.75	2.10	1.76	1.69
Federal corporate income tax.....	259	675	764	896
Undistributed profits tax.....			58	124
Federal capital stock tax.....	16	32	50	62
Federal excises.....				
Federal-State payroll taxes.....			62	236
State income taxes.....		206	429	332
State sales taxes.....				
Property taxes.....	43	42	45	43
State corporate taxes.....	12	162	155	200
Miscellaneous.....	1			
Total taxes.....	331	1,117	1,563	1,883

METAL TEXTILE CORP.

Sales.....	895	879	788	887
Gross profits.....	406	388	311	314
Net income.....	183	145	77	91
Profit rate.....	49.95	39.35	23.73	27.16
Equity ratio.....	6.12	12.86	6.03	4.95
Federal corporate income tax.....	26	19	11	13
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	6
State income taxes.....				X
State sales taxes.....			X	X
Property taxes.....	2	2	2	2
State corporate taxes.....	1	1	1	2
Miscellaneous.....	X	X		
Total taxes.....	31	24	17	24

indicate no data available.

X indicates less than \$1,000.

THE METEOR MOTOR CAR COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	695	753	956	1,267
Gross profits.....	47	61	136	211
Net income.....	(10)	14	75	115
Profit rate.....	(2.75)	4.15	22.99	35.77
Equity ratio.....	10.66	4.60	3.30	2.38
Federal corporate income tax.....				10
Undistributed profits tax.....				
Federal capital stock tax.....	X	1	2	2
Federal excises.....	X			
Federal-State payroll taxes.....			2	9
State income taxes.....				
State sales taxes.....		X		
Property taxes.....	4	4	3	3
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X		
Total taxes.....	4	5	7	24

METROPOLITAN ICE CO.

	1934	1935	1936	1937
Sales.....	2,151	2,030	2,026	2,232
Gross profits.....	1,085	925	976	981
Net income.....	21	(15)	93	55
Profit rate.....	0.85	(0.66)	4.02	2.41
Equity ratio.....	1.33	1.38	1.48	1.58
Federal corporate income tax.....		X	X	
Undistributed profits tax.....				
Federal capital stock tax.....	1	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			6	17
State income taxes.....	2	1	1	X
State sales taxes.....				
Property taxes.....	48	37	35	31
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	51	39	43	49

THE METROPOLLITAN PAVING BRICK CO.

	1934	1935	1936	1937
Sales.....	781	680	1,062	1,005
Gross profits.....	399	312	439	471
Net income.....	4	(97)	(13)	(132)
Profit rate.....	0.13	(2.90)	(0.38)	(4.45)
Equity ratio.....	81.21	54.72	26.97	61.30
Federal corporate income tax.....	0	2	X	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	2	3	1	3
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			4	17
State income taxes.....	0	0	0	0
State sales taxes.....	X	0	0	X
Property taxes.....	31	28	31	30
State corporate taxes.....	2	2	6	5
Miscellaneous.....	X	X	0	0
Total taxes.....	35	35	42	55

Indicate no data available.
X indicates less than \$1,000.
() indicate deficit.

MEVILLE SHOE CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	27,216	30,356	35,301	38,155
Gross profits.....	8,462	8,971	10,440	10,819
Net income.....	2,003	2,341	2,870	2,260
Profit rate.....	24.98	25.77	30.09	24.14
Equity ratio.....	4.05	4.60	3.33	3.53
Federal corporate income tax.....	302	316	430	369
Undistributed profits tax.....			40	6
Federal capital stock tax.....	19	20	35	36
Federal excises.....				
Federal-State payroll taxes.....			35	109
State income taxes.....	27	46	83	96
State sales taxes.....	54	16	14	21
Property taxes.....	193	187	174	187
State corporate taxes.....	8	13	15	38
Miscellaneous.....	7	9	17	11
Total taxes.....	610	607	843	873

MEYER BLANKE COMPANY

Sales.....	1,684	1,955	2,263	2,505
Gross profits.....	357	367	418	501
Net income.....	89	74	105	114
Profit rate.....	17.11	14.35	19.96	21.37
Equity ratio.....	5.58	3.98	2.71	1.99
Federal corporate income tax.....	13	10	17	18
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	X	X
Federal excises.....				
Federal-State payroll taxes.....			2	6
State income taxes.....	2	1	2	2
State sales taxes.....	3	2	2	3
Property taxes.....	3	4	5	5
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	1	1	1
Total taxes.....	21	18	29	35

MICHIGAN BUMPER CORP.¹

Sales.....			1,752	1,062
Gross profits.....			361	124
Net income.....			116	(80)
Profit rate.....			11.54	
Equity ratio.....			.96	1.07
Federal corporate income tax.....			8	
Undistributed profits tax.....			16	
Federal capital stock tax.....			1	2
Federal excises.....				
Federal-State payroll taxes.....			5	12
State income taxes.....				
State sales taxes.....				
Property taxes.....			3	4
State corporate taxes.....			1	1
Miscellaneous.....				
Total taxes.....			34	19

¹ 1936-37 data affected by reorganization.

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

MICKELBERRYS FOOD PROD. CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	713	770	935	1,437
Gross profits.....	168	103	150	200
Net income.....	(33)	(68)	16	31
Profit rate.....	(4.98)	(16.54)	3.57	6.69
Equity ratio.....	7.86	5.30	12.55	10.40
Federal corporate income tax.....				4
Undistributed profits tax.....				1
Federal capital stock tax.....			X	X
Federal excises.....				
Federal-State payroll taxes.....			2	7
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	2	2	3	3
State corporate taxes.....	2	X	1	1
Miscellaneous.....				
Total taxes.....	4	2	6	16

MICROMATIC HONE CORPORATION

Sales.....		376	421	547
Gross profits.....		138	147	214
Net income.....		51	45	79
Profit rate.....		34.62	19.77	24.09
Equity ratio.....		3.35	4.12	1.50
Federal corporate income tax.....		8	6	11
Undistributed profits tax.....			5	8
Federal capital stock tax.....		X	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	6
State income taxes.....				
State sales taxes.....				
Property taxes.....		1	2	2
State corporate taxes.....		X	X	X
Miscellaneous.....		X	X	
Total taxes.....		9	16	28

MID. AND STEEL PRODUCTS COMPANY

Sales.....	12,287	14,199	18,399	22,253
Gross profits.....	2,002	3,118	4,352	5,148
Net income.....	806	1,909	2,620	2,874
Profit rate.....	6.43	14.55	19.53	20.82
Equity ratio.....	15.17	10.40	6.97	9.82
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				

..... indicate no data available.
 X indicates less than \$1,000.
 () indicate deficit.

MID-WEST ABRASIVE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	307	412	571	670
Gross profits.....	148	205	257	265
Net income.....	34	57	61	15
Profit rate.....	27.46	27.52	13.42	3.45
Equity ratio.....	4.34	2.96	8.17	13.16
Federal corporate income tax.....	4	9	5	2
Undistributed profits tax.....			1	2
Federal capital stock tax.....	1	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			1	6
State income taxes.....				
State sales taxes.....				
Property taxes.....	1	1	2	4
State corporate taxes.....	X	X	1	X
Miscellaneous.....				
Total taxes.....	6	11	11	15

MILLER WHOLESALE DRUG COMPANY

Sales.....	839	762	858	1,004
Gross profits.....	260	279	298	377
Net income.....	(3)	7	11	15
Profit rate.....	(0.43)	1.24	2.23	3.39
Equity ratio.....	4.68	3.04	4.92	3.29
Federal corporate income tax.....			1	3
Undistributed profits tax.....			1	X
Federal capital stock tax.....	1	1	1	1
Federal excises.....	4	2	4	4
Federal-State payroll taxes.....			2	8
State income taxes.....				
State sales taxes.....				
Property taxes.....	6	8	6	6
State corporate taxes.....	1	1	1	1
Miscellaneous.....	1	X	1	X
Total taxes.....	13	12	17	23

MINNEAPOLIS HONEYWELL REGULATOR CO.

Sales.....	5,390	9,085	13,547	15,810
Gross profits.....	3,181	5,304	8,128	8,978
Net income.....	1,146	2,159	3,861	3,579
Profit rate.....	14.73	27.29	41.84	33.27
Equity ratio.....	21.54	11.93	6.50	9.56
Federal corporate income tax.....	138	269	570	444
Undistributed profits tax.....			76	109
Federal capital stock tax.....	11	27	42	51
Federal excises.....	4		31	
Federal-State payroll taxes.....			44	182
State income taxes.....	2	70	119	100
State sales taxes.....			1	2
Property taxes.....	45	77	76	87
State corporate taxes.....	3	8	6	10
Miscellaneous.....				
Total taxes.....	203	451	985	985

..... indicate no data available.
X indicates less than \$1,000.
() indicate deficit.

MINNEAPOLIS-MOLINE POWER IMPLEMENT CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	4,338	9,061	12,028	15,312
Gross profits.....	1,056	2,807	4,071	5,950
Net income.....	(2,166)	182	804	2,349
Profit rate.....	(7.06)	1.41	6.72	5.95
Equity ratio.....	22.59	13.88	10.90	5.95
Federal corporate income tax.....			108	514
Undistributed profits tax.....			32	251
Federal capital stock tax.....	11	8	11	11
Federal excises.....				
Federal-State payroll taxes.....			43	144
State income taxes.....			5	107
State sales taxes.....				
Property taxes.....	136	139	151	126
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	147	147	350	1,153

MISSOURI PORTLAND CEMENT CO.

	1934	1935	1936	1937
Sales.....	2,049	2,214	3,357	3,307
Gross profits.....	1,013	1,091	1,816	1,747
Net income.....	(20)	21	539	483
Profit rate.....	(0.21)	0.26	6.50	5.78
Equity ratio.....	255.30	144.95	41.53	46.89
Federal corporate income tax.....			58	68
Undistributed profits tax.....				2
Federal capital stock tax.....	5	5	10	6
Federal excises.....				
Federal-State payroll taxes.....			8	31
State income taxes.....			5	6
State sales taxes.....	4	10	5	X
Property taxes.....	67	70	63	66
State corporate taxes.....	5	5	5	4
Miscellaneous.....				
Total taxes.....	81	90	154	183

MOCK JUDSON VOEHRINGER CO. INC.

	1934	1935	1936	1937
Sales.....	4,142	4,529	5,069	6,167
Gross profits.....	1,001	1,140	1,249	1,839
Net income.....	246	362	392	634
Profit rate.....	10.18	13.53	14.10	21.91
Equity ratio.....	8.57	13.09	6.09	5.04
Federal corporate income tax.....	43	67	67	100
Undistributed profits tax.....			34	49
Federal capital stock tax.....	4	8	6	9
Federal excises.....	1	X	X	X
Federal-State payroll taxes.....			19	(80)
State income taxes.....	5	16	18	23
State sales taxes.....	1	1	1	1
Property taxes.....	10	10	12	19
State corporate taxes.....	3	4	4	4
Miscellaneous.....				
Total taxes.....	67	106	161	285

--- indicate no data available.

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() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18351

MOHAWK LIQUOR CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....			893	943
Gross profits.....			400	430
Net income.....			104	97
Profit rate.....			33.30	31.32
Equity ratio.....			2.1	3.17
Federal corporate income tax.....			15	14
Undistributed profits tax.....				X
Federal capital stock tax.....			1	1
Federal excises.....			35	38
Federal-State payroll taxes.....			2	6
State income taxes.....			1	X
State sales taxes.....			10	10
Property taxes.....			1	2
State corporate taxes.....			X	1
Miscellaneous.....				
Total taxes.....			65	72

MOLYBDENUM CORPORATION OF AMERICA

Sales.....	2,699	3,626	4,846	8,334
Gross profits.....	673	623	630	1,206
Net income.....	341	317	104	753
Profit rate.....	11.71	10.02	3.29	20.14
Equity ratio.....	6.95	3.95	3.67	1.99
Federal corporate income tax.....	49	44	17	127
Undistributed profits tax.....			22	1
Federal capital stock tax.....	4	6	4	4
Federal excises.....			5	21
Federal-State payroll taxes.....			3	14
State income taxes.....	X	6	X	4
State sales taxes.....	1	X	3	10
Property taxes.....	3	3	14	9
State corporate taxes.....	X	11	10	
Miscellaneous.....				
Total taxes.....	50	70	75	190

MONARCH MACHINE TOOL CO.

Sales.....	391	727	1,342	2,203
Gross profits.....	112	216	441	732
Net income.....	27	104	316	555
Profit rate.....	3.33	12.33	31.41	40.77
Equity ratio.....	35.95	13.61	8.06	7.70
Federal corporate income tax.....	3	13	46	98
Undistributed profits tax.....			12	21
Federal capital stock tax.....	2	4	3	4
Federal excises.....				
Federal-State payroll taxes.....			5	23
State income taxes.....				
State sales taxes.....				
Property taxes.....	6	5	5	6
State corporate taxes.....	1	1	1	1
Miscellaneous.....	X			
Total taxes.....	12	23	72	153

..... indicate no data available.

X indicates less than \$1,000.

MONROE CHEMICAL CO.

[\$'000's]

	1934	1935	1936	1937
Sales.....	1,139	993	889	748
Gross profits.....	959	811	718	591
Net income.....	308	243	242	125
Profit rate.....	22.22	17.60	17.61	9.43
Equity ratio.....	18.87	21.15	19.91	27.01
Federal corporate income tax.....	40	33	33	17
Undistributed profits tax.....				
Federal capital stock tax.....	3	X 4	X 3	X 3
Federal excises.....				
Federal-State payroll taxes.....			3	X 7
State income taxes.....			1	X
State sales taxes.....				
Property taxes.....	3	3	4	4
State corporate taxes.....	1	1	1	1
Miscellaneous.....		X		
Total taxes.....	47	41	45	32

MONSANTO CHEMICAL COMPANY

Sales.....			28,848	33,202
Gross profits.....			12,582	14,635
Net income.....			5,634	6,192
Profit rate.....			18.14	16.48
Equity ratio.....			7.69	9.39
Federal corporate income tax.....			954	958
Undistributed profits tax.....			75	36
Federal capital stock tax.....			99	81
Federal excises.....				
Federal-State payroll taxes.....			72	242
State income taxes.....				35
State sales taxes.....			17	25
Property taxes.....			199	209
State corporate taxes.....			68	83
Miscellaneous.....			16	8
Total taxes.....			1,500	1,677

MOTOR PRODUCTS CORPORATION

Sales.....	12,706	13,971	17,214	20,172
Gross profits.....	1,399	2,422	3,215	4,217
Net income.....	183	1,291	1,799	2,749
Profit rate.....	2.72	21.22	27.30	43.59
Equity ratio.....	9.92	3.96	3.13	5.76
Federal corporate income tax.....		137	204	490
Undistributed profits tax.....			13	19
Federal capital stock tax.....			11	11
Federal excises.....	X 6	X 8	X	1
Federal-State payroll taxes.....			47	174
State income taxes.....				
State sales taxes.....				
Property taxes.....	88	94	91	101
State corporate taxes.....	14	17	8	8
Miscellaneous.....				
Total taxes.....	108	256	374	804

.... indicate no data available.

X indicates less than \$1,000..

MOTOR WHEEL CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	11,381	13,903	19,895	24,259
Gross profits.....	2,463	2,944	4,700	4,887
Net income.....	472	1,251	2,268	2,221
Profit rate.....	5.27	13.00	21.72	20.52
Equity ratio.....	11.84	7.43	5.19	7.48
Federal corporate income tax.....	50	163	344	355
Undistributed profits tax.....			123	56
Federal capital stock tax.....	21	17	15	18
Federal excises.....			0	4
Federal-State payroll taxes.....			42	173
State income taxes.....	0	0	0	0
State sales taxes.....	0	0	0	0
Property taxes.....	75	72	76	86
State corporate taxes.....	16	16	20	22
Miscellaneous.....	3	2	2	2
Total taxes.....	165	270	622	716

MUELLER BRASS COMPANY

Sales.....	3,338	4,731	6,533	8,654
Gross profits.....	1,150	1,530	2,251	2,511
Net income.....	215	524	1,031	1,033
Profit rate.....	7.75	17.18	26.79	21.61
Equity ratio.....	2.26	2.55	4.93	3.13
Federal corporate income tax.....	30	69	161	156
Undistributed profits tax.....				63
Federal capital stock tax.....	4	6	11	12
Federal excises.....			X	1
Federal-State payroll taxes.....			19	73
State income taxes.....			2	2
State sales taxes.....				
Property taxes.....	24	28	29	33
State corporate taxes.....	4	5	5	7
Miscellaneous.....				
Total taxes.....	62	108	227	347

MULLINS MANUFACTURING CORP.

Sales.....	4,358	5,632	6,606	10,630
Gross profits.....	961	1,330	1,669	2,265
Net income.....	201	467	614	664
Profit rate.....	8.22	16.70	19.74	12.01
Equity ratio.....	6.73	12.01	6.98	8.50
Federal corporate income tax.....		44	63	69
Undistributed profits tax.....			13	29
Federal capital stock tax.....	7	7	5	8
Federal excises.....				
Federal-State payroll taxes.....			27	116
State income taxes.....				
State sales taxes.....				
Property taxes.....	29	30	35	54
State corporate taxes.....	2	2	3	5
Miscellaneous.....	X			
Total taxes.....	38	83	146	281

Indicate no data available.
X indicates less than \$1,000.

MUNSINGWEAR, INCORPORATED

[\$'000's]

	1934	1935	1936	1937
Sales.....	6,071	7,100	5,537	5,576
Gross profits.....	1,572	1,986	1,811	1,601
Net income.....	35	430	579	24
Profit rate.....	0.55	6.51	12.36	4.71
Equity ratio.....	20.49	8.92	9.40	23.27
Federal corporate income tax.....	10	47	74	26
Undistributed profits tax.....			1	
Federal capital stock tax.....	3	3	8	11
Federal excises.....				
Federal-State pay roll taxes.....			16	53
State income taxes.....	3	13	13	11
State sales taxes.....	X	X	X	X
Property taxes.....	95	90	91	96
State corporate taxes.....				1
Miscellaneous.....	1	X	17	X
Total taxes.....	112	153	220	198

G. C. MURPHY COMPANY

Sales.....		31,598	37,995	42,522
Gross profits.....		11,152	13,537	15,239
Net income.....		2,843	3,865	3,957
Profit rate.....		21.41	25.27	23.32
Equity ratio.....		3.15	2.52	3.22
Federal corporate income tax.....		359	547	562
Undistributed profits tax.....			118	168
Federal capital stock tax.....		31	43	47
Federal excises.....				
Federal-State pay roll taxes.....			56	210
State income taxes.....		76	155	120
State sales taxes.....		76	74	74
Property taxes.....		204	221	275
State corporate taxes.....		35	85	95
Miscellaneous.....		X	3	1
Total taxes.....		781	1,302	1,552

THE MURRAY CORP. OF AMERICA

Sales.....			33,769	43,395
Gross profits.....	2,928	4,982	4,724	5,463
Net income.....	(596)	1,754	976	1,111
Profit rate.....	(4.50)	12.43	6.70	7.18
Equity ratio.....	3.18	10.41	5.29	8.00
Federal corporate income tax.....	10	194	68	122
Undistributed profits tax.....			0	65
Federal capital stock tax.....	13	20	13	20
Federal excises.....	5	1	4	0
Federal-State pay roll taxes.....			93	369
State income taxes.....	X	X	0	0
State sales taxes.....	0	0	0	0
Property taxes.....	315	312	319	331
State corporate taxes.....	33	22	26	37
Miscellaneous.....	7	4	7	9
Total taxes.....	383	552	530	953

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE MURRAY OHIO MANUFACTURING CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	2,293	3,800	4,116	4,489
Gross profits.....	470	774	940	936
Net income.....	154	317	408	290
Profit rate.....	11.21	19.78	21.18	14.30
Equity ratio.....	.76	.95	8.40	16.14
Federal corporate income tax.....	4	33	55	41
Undistributed profits tax.....			28	16
Federal capital stock tax.....	3	2	5	5
Federal excises.....				
Federal-State payroll taxes.....			13	43
State income taxes.....				
State sales taxes.....				
Property taxes.....	19	19	21	21
State corporate taxes.....	X	X	1	2
Miscellaneous.....				
Total taxes.....	26	54	123	128

MUSKEGON PISTON RING CO.¹

Sales.....		884	1,368	1,684
Gross profits.....		468	683	818
Net income.....		325	399	476
Profit rate.....		60.94	37.46	45.27
Equity ratio.....		5.71	6.35	9.27
Federal corporate income tax.....		46	58	73
Undistributed profits tax.....				
Federal capital stock tax.....		3	6	7
Federal excises.....				
Federal-State payroll taxes.....			6	23
State income taxes.....				
State sales taxes.....		3	6	8
Property taxes.....		1	2	2
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....		53	78	113

¹ Formerly Sparta Foundry Co. Name changed March 1936.

A. NASH COMPANY

Sales.....	3,673	3,895	3,836	3,617
Gross profits.....	1,013	1,193	1,224	1,158
Net income.....	(17)	187	135	16
Profit rate.....	(1.13)	10.05	7.84	0.95
Equity ratio.....	7.56	12.51	9.68	12.67
Federal corporate income tax.....	0	20	17	1
Undistributed profits tax.....			4	0
Federal capital stock tax.....	2	2	2	2
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			16	46
State income taxes.....	0	0	0	0
State sales taxes.....	0	0	0	0
Property taxes.....	16	15	14	15
State corporate taxes.....	1	1	1	1
Miscellaneous.....		X	X	X
Total.....	19	38	54	65

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

NATIONAL AUTOMOTIVE FIBRES, INC.

[\$000's]

	1934	1935	1936	1937
Sales.....			5,316	6,171
Gross profits.....	842	1,368	1,705	1,607
Net income.....	522	1,032	1,183	642
Profit rate.....	15.78	27.19	26.56	15.77
Equity ratio.....	10.72	4.43	1.85	2.02
Federal corporate income tax.....	69	158	199	90
Undistributed profits tax.....			28	2
Federal capital stock tax.....	4	14	13	10
Federal excises.....				
Federal-State payroll taxes.....			12	73
State income taxes.....	16	37	33	19
State sales taxes.....				1
Property taxes.....	11	13	20	31
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	100	222	305	226

NATIONAL BEARING METALS CORP.

	1934	1935	1936	1937
Sales.....	4,690	5,356	7,136	9,387
Gross profits.....	1,219	1,340	1,791	1,607
Net income.....	472	599	923	672
Profit rate.....	7.33	9.28	14.42	11.46
Equity ratio.....	2.78	2.73	2.50	3.53
Federal corporate income tax.....	55	76	118	79
Undistributed profits tax.....			17	0
Federal capital stock tax.....	6	6	8	8
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			13	41
State income taxes.....	4	12	23	14
State sales taxes.....	1	X	1	2
Property taxes.....	27	29	27	26
State corporate taxes.....	7	8	12	16
Miscellaneous.....				
Total taxes.....	100	131	219	186

NATIONAL BELLAS HESS, INCORPORATED

	1934	1935	1936	1937
Sales.....		6,813	8,326	8,128
Gross profits.....		1,951	2,526	2,567
Net income.....		24	26	52
Profit rate.....		1.51	9.01	2.12
Equity ratio.....		7.70	4.02	2.01
Federal corporate income tax.....		3	28	7
Undistributed profits tax.....				
Federal capital stock tax.....		4	5	6
Federal excises.....				
Federal-State payroll taxes.....			7	26
State income taxes.....		X	2	
State sales taxes.....		4	5	7
Property taxes.....		34	36	36
State corporate taxes.....		1	1	2
Miscellaneous.....		X	X	X
Total taxes.....		46	84	84

--- indicate no data available.

X indicates less than \$1,000.

NATIONAL BISCUIT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	81,218	81,421	89,381	93,730
Gross profits.....	44,406	43,229	49,833	48,880
Net income.....	13,566	11,734	15,574	14,274
Profit rate.....	12.22	10.75	14.16	12.92
Equity ratio.....	15.84	14.93	18.58	18.97
Federal corporate income tax.....	1,568	1,324	2,405	1,861
Undistributed profits tax.....				
Federal capital stock tax.....	161	184	183	180
Federal excises.....				
Federal-State payroll taxes.....			302	771
State income taxes.....	259	246	313	328
State sales taxes.....	9	16	24	23
Property taxes.....	889	845	944	939
State corporate taxes.....	31	30	88	98
Miscellaneous.....				
Total taxes.....	2,916	2,646	4,258	4,200

NATIONAL CASH REGISTER CO.

Sales.....	23,846	29,754	35,106	42,280
Gross profits.....	14,184	16,293	21,615	26,515
Net income.....	1,732	2,194	3,364	5,462
Profit rate.....	5.34	6.68	9.80	13.97
Equity ratio.....	5.61	5.61	3.16	2.58
Federal corporate income tax.....	28	128	261	491
Undistributed profits tax.....			86	242
Federal capital stock tax.....	44	40	47	45
Federal excises.....				
Federal-State payroll taxes.....			154	454
State income taxes.....	303	38	82	64
State sales taxes.....				
Property taxes.....	267	243	216	212
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	642	449	845	1,508

NATIONAL CONTAINER CORPORATION

Sales.....	2,314	2,589	2,639	3,055
Gross profits.....	728	846	935	1,139
Net income.....	206	237	330	442
Profit rate.....	9.12	10.47	15.72	7.38
Equity ratio.....	3.68	3.32	2.66	1.27
Federal corporate income tax.....	23	25	33	30
Undistributed profits tax.....			11	7
Federal capital stock tax.....	2	6	X	10
Federal excises.....				
Federal-State payroll taxes.....			6	21
State income taxes.....	3	5	9	4
State sales taxes.....	3	2	2	2
Property taxes.....				4
State corporate taxes.....				2
Miscellaneous.....				
Total taxes.....	31	38	61	80

--- indicate no data available.

X indicates less than \$1,000.

NATIONAL DAIRY PRODUCTS CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	267,415	290,441	329,172	351,016
Gross profits.....	41,927	46,014	53,046	51,738
Net income.....	11,857	14,755	18,606	15,017
Profit rate.....	6.94	8.64	10.73	8.78
Equity ratio.....	1.18	1.19	1.11	1.13
Federal corporate income tax.....	1,404	1,667	2,142	1,918
Undistributed profits tax.....			8	166
Federal capital stock tax.....	293	229	569	523
Federal excises.....	134	33	66	8
Federal-State payroll taxes.....			630	1,926
State income taxes.....	330	398	506	367
State sales taxes.....	205	162	120	152
Property taxes.....	1,534	1,282	1,298	1,366
State corporate taxes.....				
Miscellaneous.....	481	529	493	586
Total taxes.....	4,181	4,300	5,832	7,012

NATIONAL DEPARTMENT STORES CORPORATION

Sales.....			45,258	46,102
Gross profits.....			9,951	10,137
Net income.....			1,551	976
Profit rate.....			12.08	7.54
Equity ratio.....			1.38	1.82
Federal corporate income tax.....			150	103
Undistributed profits tax.....			43	58
Federal capital stock tax.....			29	27
Federal excises.....			1	1
Federal-State payroll taxes.....			88	245
State income taxes.....			30	11
State sales taxes.....			23	25
Property taxes.....			116	114
State corporate taxes.....			29	20
Miscellaneous.....			11	10
Total taxes.....			520	614

NATIONAL ENAMELING & STAMPING CO.

Sales.....	8,144	9,205	9,806	9,414
Gross profits.....	2,480	2,493	2,722	2,734
Net income.....	422	348	397	303
Profit rate.....	4.94	4.04	4.54	3.45
Equity ratio.....	20.33	17.60	13.78	26.29
Federal corporate income tax.....	49	36	57	
Undistributed profits tax.....				
Federal capital stock tax.....	3	5	5	6
Federal excises.....				X
Federal-State payroll taxes.....			38	129
State income taxes.....	X	4	4	2
State sales taxes.....				1
Property taxes.....	113	111	118	125
State corporate taxes.....	4	2	3	2
Miscellaneous.....				
Total taxes.....	169	158	225	265

... Indicate no data available.

X indicates less than \$1,000.

NATIONAL LEAD COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	56,350	66,559	78,765	91,947
Gross profits.....	14,732	16,983	20,911	17,971
Net income.....	4,969	6,097	8,495	5,927
Profit rate.....	6.37	7.69	10.27	7.05
Equity ratio.....	15.79	14.76	19.19	14.55
Federal corporate income tax.....	706	813	1,214	993
Undistributed profits tax.....				25
Federal capital stock tax.....	60	53	46	89
Federal excises.....				
Federal-State payroll taxes.....	X	X	104	414
State income taxes.....	67	70	75	91
State sales taxes.....	15	20	19	24
Property taxes.....	378	505	500	463
State corporate taxes.....	23	25	18	23
Miscellaneous.....	13	17	12	29
Total taxes.....	1,262	1,503	1,988	2,151

NATIONAL MALLEABLE AND STEEL CASTINGS CO.

Sales.....		9,728	14,033	19,210
Gross profits.....		2,281	4,222	5,138
Net income.....		111	1,368	2,454
Profit rate.....		.87	9.83	16.15
Equity ratio.....		18.22	10.30	11.29
Federal corporate income tax.....		2	213	369
Undistributed profits tax.....			25	139
Federal capital stock tax.....		11	12	15
Federal excises.....		4	5	5
Federal-State payroll taxes.....			65	263
State income taxes.....			21	20
State sales taxes.....		11	13	39
Property taxes.....		178	180	168
State corporate taxes.....		11	23	29
Miscellaneous.....		X	1	X
Total taxes.....		217	563	1,047

NATIONAL PRESSURE COOKER COMPANY

Sales.....	1,263	1,838	1,680	1,583
Gross profits.....	260	395	390	400
Net income.....	21	133	105	88
Profit rate.....	4.63	23.38	17.52	14.93
Equity ratio.....	2.33	4.06	3.04	2.66
Federal corporate income tax.....	3	16	14	10
Undistributed profits tax.....				
Federal capital stock tax.....	X	3	2	2
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			0	12
State income taxes.....	0	7	5	4
State sales taxes.....	0	0	0	0
Property taxes.....	6	7	7	8
State corporate tax.....	0	0	0	0
Miscellaneous.....	0			
Total taxes.....	9	33	28	36

..... indicate no data available.

X indicates less than \$1,000.

NATIONAL PUMPS CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	174	500	1,044	1,442
Gross profits.....	40	139	418	535
Net income.....	(91)	(29)	111	85
Profit rate.....	(62.38)	(21.89)	40.71	30.84
Equity ratio.....	1.06	.43	.34	.65
Federal corporate income tax.....	0	0	13	7
Undistributed profits tax.....			X	X
Federal capital stock tax.....	X	X	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	8
State income taxes.....		2		
State sales taxes.....		2	4	13
Property taxes.....	2	2	2	2
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X		
Total taxes.....	2	4	22	31

NATIONAL REFINING CO.

Sales.....	14,383	13,821	15,393	16,379
Gross profits.....	1,333	4,781	5,364	5,370
Net income.....	(1,101)	125	564	112
Profit rate.....	(5.87)	0.66	2.99	0.59
Equity ratio.....	22.14	18.53	12.24	14.50
Federal corporate income tax.....		11	84	5
Undistributed profits tax.....				
Federal capital stock tax.....		13	16	17
Federal excises.....	96	38	35	33
Federal-State payroll taxes.....			33	103
State income taxes.....				
State sales taxes.....		6	6	13
Property taxes.....	227	198	206	213
State corporate taxes.....	13	10	12	11
Miscellaneous.....	68	18	26	30
Total taxes.....	404	294	418	425

NATIONAL RUBBER MACHINERY CO.

Sales.....	1,092	893	1,528	1,820
Gross profits.....	296	231	410	438
Net income.....	(123)	(75)	83	(84)
Profit rate.....	(8.22)	(5.30)	4.99	(5.37)
Equity ratio.....	23.99	8.31	8.79	5.49
Federal corporate income tax.....	0	0	2	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	1	1	1	1
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			7	25
State income taxes.....	0	0	0	0
State sales taxes.....	0	0	0	0
Property taxes.....	16	11	11	13
State corporate taxes.....	2	1	1	2
Miscellaneous.....	0	X	1	
Total taxes.....	19	13	23	41

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

NATIONAL TEA COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	61,777	61,840	61,096	60,753
Gross profits.....	12,872	12,382	11,670	11,078
Net income.....	741	570	417	(1,306)
Profit rate.....	3.65	3.28	2.91	(9.73)
Equity ratio.....	2.27	2.64	2.96	2.91
Federal corporate income tax.....	92	80	51	2
Undistributed profits tax.....				
Federal capital stock tax.....	17	18	21	19
Federal excises.....	2	1	4	X
Federal-State payroll taxes.....			106	221
State income taxes.....				
State sales taxes.....	1,012	1,224	1,389	1,348
Property taxes.....	136	226	270	270
State corporate taxes.....	83	67	75	76
Miscellaneous.....	53	33	39	52
Total taxes.....	1,395	1,649	1,955	1,988

NATIONAL UNION RADIO CORP.

	1934	1935	1936	1937
Sales.....	3,321	3,047	3,197	2,405
Gross profits.....	883	825	1,007	723
Net income.....	(32)	(29)	70	(80)
Profit rate.....	(1.88)	(1.80)	5.46	(7.19)
Equity ratio.....	.43	.33	2.01	2.12
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	1	X	2	
Federal excises.....	39	41	39	36
Federal-State payroll taxes.....			20	30
State income taxes.....				X
State sales taxes.....		X		
Property taxes.....	14	22	20	21
State corporate taxes.....	X	X	X	X
Miscellaneous.....		4		
Total taxes.....	54	67	81	87

MEBI CORPORATION

	1934	1935	1936	1937
Sales.....	1,001	1,261	2,290	3,510
Gross profits.....	656	827	1,575	2,584
Net income.....	284	304	598	1,255
Profit rate.....	10.65	10.71	24.67	41.94
Equity ratio.....	159.00	43.52	12.43	6.67
Federal corporate income tax.....		45	126	276
Undistributed profits tax.....			2	20
Federal capital stock tax.....	3	2	5	10
Federal excises.....	2	1	1	3
Federal-State payroll taxes.....			3	10
State income taxes.....		13	30	77
State sales taxes.....				
Property taxes.....	5	7	6	8
State corporate taxes.....	1	1	1	1
Miscellaneous.....	1	1	1	2
Total taxes.....	12	70	75	407

--- indicate no data available.

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NEPTUNE METER CO. OF N. J.

[\$000's]

	1934	1935	1936	1937
Sales.....	2,594	2,700	3,778	3,923
Gross profits.....	1,422	1,515	2,109	2,060
New income.....	304	219	540	473
Profit rate.....	10.92	7.37	18.28	15.61
Equity ratio.....	16.70	19.83	7.25	7.22
Federal corporate income tax.....	2	35	13	86
Undistributed profits tax.....				
Federal capital stock tax.....	5	5	13	9
Federal excises.....				
Federal-State payroll taxes.....			15	46
State income taxes.....				
State sales taxes.....	8	10	7	10
Property taxes.....				
State corporate taxes.....	14	13	13	13
Miscellaneous.....	X	X	X	X
Total taxes.....	29	63	61	164

THE NEW HAVEN CLOCK CO.

Sales.....	2,291	2,888	3,714	3,141
Gross profits.....	597	629	982	743
Net income.....	123	143	397	133
Profit rate.....	5.07	5.63	15.03	5.22
Equity ratio.....	11.77	8.28	6.52	4.13
Federal corporate income tax.....	16	19	67	15
Undistributed profits tax.....			20	
Federal capital stock tax.....	3	4	3	3
Federal excises.....	5	6	13	16
Federal-State payroll taxes.....			20	58
State income taxes.....	2	3	8	3
State sales taxes.....	1	X	X	1
Property taxes.....	27	27	27	27
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	54	59	158	123

NEW IDEA INCORPORATED

Sales.....				5,107
Gross profits.....				2,296
Net income.....				1,008
Profit rate.....				30.09
Equity ratio.....				7.29
Federal corporate income tax.....				164
Undistributed profits tax.....				87
Federal capital stock tax.....				9
Federal excises.....				
Federal-State payroll taxes.....				50
State income taxes.....				7
State sales taxes.....			X	
Property taxes.....				16
State corporate taxes.....				3
Miscellaneous.....				
Total taxes.....				336

.....Indicate no data available.
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NEWPORT INDUSTRIES, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	2,709	3,413	4,364	5,457
Gross profits.....	894	1,014	1,364	2,360
Net income.....	203	354	654	1,451
Profit rate.....	6.53	10.66	18.36	33.95
Equity ratio.....	7.25	7.70	5.71	2.77
Federal corporate income tax.....	30	47	106	258
Undistributed profits tax.....			31	21
Federal capital stock tax.....	10	10	8	10
Federal excises.....				
Federal-State payroll taxes.....			9	32
State income taxes.....	1	1	2	18
State sales taxes.....				
Property taxes.....	31	35	32	35
State corporate taxes.....	2	2	3	4
Miscellaneous.....				
Total taxes.....	74	95	191	378

THE NEW YORK AIR BRAKE CO.

Sales.....	2,273	1,947	4,074	6,495
Gross profits.....	701	497	1,595	2,282
Net income.....	58	(102)	904	1,201
Profit rate.....	0.46	(0.81)	7.17	9.21
Equity ratio.....	57.41	131.28	25.70	18.97
Federal corporate income tax.....	17	0	144	184
Undistributed profits tax.....			18	81
Federal capital stock tax.....	13	12	13	13
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			16	71
State income taxes.....	6	6	7	68
State sales taxes.....	1	0	0	0
Property taxes.....	36	34	35	39
State corporate taxes.....	2	2	1	1
Miscellaneous.....	0	0	0	0
Total taxes.....	73	54	234	457

NEW YORK AUCTION COMPANY, INC.

Sales.....	214	253	278	288
Gross profits.....	27	79	83	82
Net income.....	(87)	41	45	36
Profit rate.....	(9.40)	4.30	4.78	3.79
Equity ratio.....	.85	.69	.62	.65
Federal corporate income tax.....		3	3	2
Undistributed profits tax.....			X	
Federal capital stock tax.....	X	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			2	4
State income taxes.....	1	1	2	2
State sales taxes.....	X	X	X	X
Property taxes.....	11	11	11	11
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	12	16	19	20

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() indicate deficit.

NEW YORK SHIPBUILDING CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	12,214	12,405	14,077	13,017
Gross profits.....	1,396	727	1,570	349
Net income.....	(70)	(1,233)	659	(1,198)
Profit rate.....	(0.59)	(2.06)	6.51	(13.88)
Equity ratio.....	1.86	1.46	1.64	1.49
Federal corporate income tax.....	0	0	0	0
Undistributed profits tax.....	0	0	0	0
Federal capital stock tax.....	8	9	10	10
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....	0	0	87	250
State income taxes.....	0	0	X	X
State sales taxes.....	0	0	0	0
Property taxes.....	294	234	208	213
State corporate taxes.....	1	1	X	3
Miscellaneous.....				
Total taxes.....	243	244	305	476

NINETEEN HUNDRED CORPORATION

Sales.....	4,908	5,421	6,807	6,751
Gross profits.....	1,083	1,045	1,180	967
Net income.....	529	620	719	570
Profit rate.....	21.32	27.91	37.02	27.90
Equity ratio.....	12.18	5.28	6.78	7.32
Federal corporate income tax.....	80	70	101	75
Undistributed profits tax.....			2	5
Federal capital stock tax.....	8	8	8	8
Federal excises.....				
Federal-State payroll taxes.....			10	31
State income taxes.....	12	14	16	19
State sales taxes.....				
Property taxes.....	13	12	14	16
State corporate taxes.....	2	2	1	2
Miscellaneous.....				
Total taxes.....	115	106	152	156

NOBLITT-SPARKS INDUSTRIES, INC.

Sales.....	5,370	7,761	9,353	10,195
Gross profits.....	1,166	1,744	2,719	2,662
Net income.....	453	796	1,505	1,310
Profit rate.....	25.02	36.77	50.00	27.99
Equity ratio.....	5.45	3.10	3.63	9.81
Federal corporate income tax.....	51	106	232	178
Undistributed profits tax.....			79	57
Federal capital stock tax.....	4	7	12	12
Federal excises.....	37	59	90	89
Federal-State payroll taxes.....			23	69
State income taxes.....				
State sales taxes.....	1	1	1	1
Property taxes.....	12	19	19	25
State corporate taxes.....				
Miscellaneous.....	1	1		10
Total taxes.....	106	193	456	441

.... indicate no data available.

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() indicate deficit.

NORTH AMERICAN AVIATION INC.

[\$'000's]

	1934	1935	1936	1937
Sales.....	1,929	3,697	5,232	8,249
Gross profits.....	460	1,984	2,423	3,485
Net income.....	207	15	4	716
Profit rate.....	3.77	0.27	0.07	12.44
Equity ratio.....	13.04	11.27	5.53	2.54
Federal corporate income tax.....				190
Undistributed profits tax.....				34
Federal capital stock tax.....	2	3	2	5
Federal excises.....				
Federal-State payroll taxes.....			26	116
State income taxes.....			X	X
State sales taxes.....		2	5	8
Property taxes.....	14	6	13	20
State corporate taxes.....	5	2	2	1
Miscellaneous.....				
Total taxes.....	21	13	48	365

NORTH AMERICAN RAYON CORPORATION

Sales.....		8,113	9,621	10,068
Gross profits.....		3,113	4,402	5,301
Net income.....		1,070	2,403	2,920
Profit rate.....		10.28	22.07	28.02
Equity ratio.....		14.45	10.31	10.07
Federal corporate income tax.....		162	366	442
Undistributed profits tax.....			76	174
Federal capital stock tax.....		30	81	32
Federal excises.....				
Federal-State payroll taxes.....			31	102
State income taxes.....		4	57	65
State sales taxes.....				
Property taxes.....		3	4	23
State corporate taxes.....		14	12	16
Miscellaneous.....		X	X	X
Total taxes.....		213	577	854

NORTHERN PAPER MILLS

Sales.....	4,461	4,566	5,169	5,963
Gross profits.....	1,958	1,972	2,003	2,282
Net income.....	478	198	493	515
Profit rate.....	5.69	2.37	6.12	6.85
Equity ratio.....	.69	.68	.72	.64
Federal corporate income tax.....	8		10	8
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	3	3
Federal excises.....	12	41		
Federal-State payroll taxes.....			15	87
State income taxes.....	3		9	
State sales taxes.....				
Property taxes.....	72	75	78	110
State corporate taxes.....		1	2	X
Miscellaneous.....				
Total taxes.....	97	119	117	158

--- indicate no data available.

X indicates less than \$1,000.

NUNN BUSH SHOE COMPANY

[\$'000's]

	1934	1935	1936	1937
Sales.....				6,503
Gross profits.....				2,404
Net income.....				318
Profit rate.....				12.46
Equity ratio.....				2.64
Federal corporate income tax.....				53
Undistributed profits tax.....				X
Federal capital stock tax.....				5
Federal excises.....				
Federal-State payroll taxes.....				69
State income taxes.....				11
State sales taxes.....				1
Property taxes.....				32
State corporate taxes.....				3
Miscellaneous.....				
Total taxes.....				174

THE OHIO BRASS COMPANY

	3,719	3,862	5,154	6,890
Sales.....	1,655	1,620	2,381	3,094
Gross profits.....	550	390	1,233	1,365
Net income.....	6.12	4.39	17.01	18.49
Profit rate.....	28.29	25.26	10.97	14.81
Equity ratio.....				
Federal corporate income tax.....	50	32	150	187
Undistributed profits tax.....			X	1
Federal capital stock tax.....	13	13	10	9
Federal excises.....				
Federal-State payroll taxes.....			20	79
State income taxes.....				
State sales taxes.....				
Property taxes.....	39	36	33	36
State corporate taxes.....	10	12	11	8
Miscellaneous.....				
Total taxes.....	112	93	224	320

O'CONNOR MOFFATT & COMPANY

			4,243	4,203
Sales.....			1,143	1,174
Gross profits.....			140	83
Net income.....			7.23	4.28
Profit rate.....			1.29	1.36
Equity ratio.....				
Federal corporate income tax.....			13	5
Undistributed profits tax.....			6	
Federal capital stock tax.....			2	2
Federal excises.....				X
Federal-State payroll taxes.....			10	29
State income taxes.....			X	4
State sales taxes.....			127	125
Property taxes.....			55	56
State corporate taxes.....				
Miscellaneous.....			X	
Total taxes.....			213	221

.... indicate no data available.

X indicates less than \$1,000.

THE OHIO CONFECTION COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		341	429	719
Gross profits.....		36	50	67
Net income.....		(3)	11	20
Profit rate.....		(5.38)	17.29	27.68
Equity ratio.....		4.11	3.07	2.72
Federal corporate income tax.....			2	3
Undistributed profits tax.....			0	0
Federal capital-stock tax.....		X	X	X
Federal excises.....		0	0	0
Federal-State payroll taxes.....			1	4
State income taxes.....			X	X
State sales taxes.....			X	X
Property taxes.....		1	1	1
State corporate taxes.....		X	X	X
Miscellaneous.....				
Total taxes.....		1	4	8

THE OHIO OIL COMPANY

Sales.....	42,896	45,627	52,992	64,165
Gross profits.....	20,204	23,954	29,103	37,432
Net income.....	5,702	5,832	8,258	12,943
Profit rate.....	3.48	4.42	6.22	9.82
Equity ratio.....	44.13	20.82	29.50	23.05
Federal corporate income tax.....	273	337	368	1,068
Undistributed profits tax.....				
Federal capital stock tax.....	34	46	88	50
Federal excises.....	248	241	249	281
Federal-State payroll taxes.....			90	300
State income taxes.....			X	
State sales taxes.....	370	419	483	708
Property taxes.....	1,280	1,142	1,120	1,170
State corporate taxes.....	52	58	35	55
Miscellaneous.....	X		X	X
Total taxes.....	2,257	2,243	2,433	3,632

ONTARIO MANUFACTURING COMPANY

Sales.....	1,128	1,427	1,589	1,665
Gross profits.....	207	287	348	392
Net income.....	24	89	141	162
Profit rate.....	2.01	7.93	13.79	15.21
Equity ratio.....	56.65	47.23	16.82	18.64
Federal corporate income tax.....	3	12	20	23
Undistributed profits tax.....			5	6
Federal capital stock tax.....	2	1	2	2
Federal excises.....				
Federal-State payroll taxes.....			6	18
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	4	4	4	5
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	9	17	37	54

..... indicate no data available.

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() indicate deficit.

OSCAR NEBEL COMPANY INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	998	1,442	1,621	1,705
Gross profits.....	102	162	104	164
Net income.....	17	36	(34)	4
Profit rate.....	1.35	2.77	(2.71)	0.28
Equity ratio.....	17.20	10.91	7.64	5.25
Federal corporate income tax.....		1		
Undistributed profits tax.....				
Federal capital stock tax.....	X	1	1	1
Federal excises.....				
Federal-State payroll taxes.....			4	16
State income taxes.....				
State sales taxes.....				
Property taxes.....	2	2	2	2
State corporate taxes.....	X	4	2	2
Miscellaneous.....				
Total taxes.....	2	3	9	21

OSHKOSH B'GOSH INC.

Sales.....	1,389	1,596	1,877	-1,833
Gross profits.....	300	355	481	394
Net income.....	152	139	214	137
Profit rate.....	28.35	22.75	38.48	23.55
Equity ratio.....	10.65	19.14	9.28	17.55
Federal corporate income tax.....	22	18	40	22
Undistributed profits tax.....				
Federal capital stock tax.....	1	2	2	2
Federal excises.....			X	1
Federal-State payroll taxes.....			9	16
State income taxes.....	7	6	13	6
State sales taxes.....				
Property taxes.....				
State corporate taxes.....	X 5	X 5	X 6	X 7
Miscellaneous.....				
Total taxes.....	35	31	70	54

OTIS ELEVATOR COMPANY

Sales.....	17,925	15,459	19,798	27,822
Gross profits.....	4,772	6,831	9,438	12,612
Net income.....	(1,603)	1,121	2,266	4,128
Profit rate.....	(4.44)	3.15	6.28	11.32
Equity ratio.....	38.81	34.54	27.56	22.53
Federal corporate income tax.....		10	236	513
Undistributed profits tax.....				23
Federal capital stock tax.....	21	18	32	32
Federal excises.....				
Federal-State payroll taxes.....			123	460
State income taxes.....	32	89	58	116
State sales taxes.....	9	4	5	6
Property taxes.....	313	286	287	294
State corporate taxes.....				
Miscellaneous.....	6	7	8	70
Total taxes.....	381	414	749	1,514

.... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE OTIS STEEL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	16,780	22,748	28,876	31,989
Gross profits.....	5,029	7,567	8,318	9,038
Net income.....	1,518	3,522	3,518	3,595
Profit rate.....	5.22	10.83	10.93	9.98
Equity ratio.....	1.12	1.34	1.54	1.32
Federal corporate income tax.....	103	395	430	225
Undistributed profits tax.....			375	165
Federal capital stock tax.....	34	31	36	35
Federal excises.....				
Federal-State payroll taxes.....			83	287
State income taxes.....				
State sales taxes.....				
Property taxes.....	407	416	438	417
State corporate taxes.....	7	8	11	13
Miscellaneous.....	X	X		
Total taxes.....	551	850	1,373	1,242

OUTBOARD MARINE & MFG. CO.

Sales.....				6,843
Gross profits.....				2,530
Net income.....				1,157
Profit rate.....				37.91
Equity ratio.....				4.35
Federal corporate income tax.....				209
Undistributed profits tax.....				
Federal capital stock tax.....				17
Federal excises.....				26
Federal-State payroll taxes.....				52
State income taxes.....				29
State sales taxes.....				
Property taxes.....				25
State corporate taxes.....				2
Miscellaneous.....				
Total taxes.....				363

PACIFIC AMERICAN FISHERIES, INC.

Sales.....		4,592	7,198	7,129
Gross profits.....		1,866	2,216	2,332
Net income.....		683	930	965
Profit rate.....		8.83	13.14	13.31
Equity ratio.....		3.54	4.60	1.76
Federal corporate income tax.....		80	111	120
Undistributed profits tax.....				
Federal capital stock tax.....		12	9	10
Federal excises.....				
Federal-State payroll taxes.....				
State income taxes.....		2	4	47
State sales taxes.....			3	3
Property taxes.....	X	1		3
State corporate taxes.....	21	25		22
Miscellaneous.....	3	3		X
Total taxes.....		118	156	205

--- Indicate no data available.

X indicates less than \$1,000.

PACIFIC CAN COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		2,030	2,290	3,200
Gross profits.....		589	645	610
Net income.....		370	315	227
Profit rate.....		25.36	14.53	10.28
Equity ratio.....		5.53	8.27	1.55
Federal corporate income tax.....		59	53	29
Undistributed profits tax.....			20	16
Federal capital stock tax.....		4	7	8
Federal excises.....				
Federal-State payroll taxes.....			5	19
State income taxes.....		11	16	13
State sales taxes.....		3	5	9
Property taxes.....		4	7	11
State corporate taxes.....				
Miscellaneous.....		X	X	
Total taxes.....		81	113	105

PACIFIC CLAY PRODUCTS

Sales.....	513	614	1,061	1,022
Gross profits.....	137	285	430	481
Net income.....	(109)	30	134	122
Profit rate.....	(7.29)	2.08	9.50	8.66
Equity ratio.....	7.37	7.22	4.24	3.82
Federal corporate income tax.....		1	18	18
Undistributed profits tax.....			4	2
Federal capital stock tax.....	1	1	1	1
Federal excises.....	X			
Federal-State payroll taxes.....			4	13
State income taxes.....	X	X	X	5
State sales taxes.....				
Property taxes.....	10	19	19	22
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	20	21	46	61

PACIFIC MILLS

Sales.....	40,107	50,336	55,119	47,196
Gross profits.....	5,548	5,915	7,207	6,496
Net income.....	(441)	(374)	1,335	(1,810)
Profit rate.....	(1.81)	(1.55)	5.41	(8.22)
Equity ratio.....	3.39	2.37	2.05	2.22
Federal corporate income tax.....		27	97	
Undistributed profits tax.....			19	
Federal capital stock tax.....	25	25	25	25
Federal excises.....	1,172	1,333		
Federal-State payroll taxes.....			121	421
State income taxes.....	0	0	15	0
State sales taxes.....				
Property taxes.....	467	430	376	394
State corporate taxes.....	32	77	64	75
Miscellaneous.....				
Total taxes.....	1,696	1,892	717	915

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18371

PACKARD MOTOR CAR COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	21,855	58,628	86,352	100,572
Gross profits.....	5,899	16,552	24,190	26,297
Net income.....	(7,267)	3,896	8,378	3,665
Profit rate.....	(17.46)	8.67	18.52	8.23
Equity ratio.....	8.96	6.93	3.95	6.11
Federal corporate income tax.....	14	549	1,249	560
Undistributed profits tax.....			14	X
Federal capital stock tax.....	102	140	44	91
Federal excises.....	350	1,293	1,753	2,606
Federal-State payroll taxes.....			201	928
State income taxes.....	3	5	10	14
State sales taxes.....		11		X
Property taxes.....	674	692	723	833
State corporate taxes.....	57	57	74	80
Miscellaneous.....				
Total taxes.....	1,200	2,747	4,068	5,112

PAN AMERICAN PETROLEUM & TRANSPORT CO.

Sales.....	68,636	71,692	86,560	94,642
Gross profits.....	18,782	21,108	24,561	30,458
Net income.....	(513)	647	3,107	7,165
Profit rate.....	(0.94)	1.17	4.80	10.30
Equity ratio.....	6.04	6.27	2.01	1.61
Federal corporate income tax.....	318	160	568	1,169
Undistributed profits tax.....			22	71
Federal capital stock tax.....	48	89	91	103
Federal excises.....	110	121	131	134
Federal-State payroll taxes.....			82	246
State income taxes.....	12	8	41	78
State sales taxes.....	29	145	150	215
Property taxes.....	471	473	489	532
State corporate taxes.....	152	124	132	174
Miscellaneous.....	43	54	74	72
Total taxes.....	1,183	1,164	1,780	2,794

PANHANDLE PRODUCING & REFINING CO.

Sales.....	2,379	2,723	3,469	4,043
Gross profits.....	413	663	903	1,020
Net income.....	(165)	19	191	251
Profit rate.....			12.26	14.23
Equity ratio.....	(6.69)	(0.74)	1.44	1.43
Federal corporate income tax.....			X	4
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	2	2
Federal excises.....		X	X	X
Federal-State payroll taxes.....			6	16
State income taxes.....				
State sales taxes.....	10	9	12	16
Property taxes.....	24	23	26	27
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	35	33	47	66

--- indicate no data available.

X Indicates less than \$1,000.

() indicate deficit.

PARK & TILFORD INC.

[\$000's]

	1934	1935	1936	1937
Sales.....	9,546	8,547	10,721	11,679
Gross profits.....	3,065	2,695	3,208	3,393
Net income.....	308	309	734	1,113
Profit rate.....	5.79	5.62	14.85	17.98
Equity ratio.....	1.78	2.27	1.36	1.73
Federal corporate income tax.....	27	11	31	36
Undistributed profits tax.....			17	6
Federal capital stock tax.....	4	4	5	4
Federal excises.....				
Federal-State payroll taxes.....			5	14
State income taxes.....	16	8	5	12
State sales taxes.....	1	1	2	1
Property taxes.....	114	109	77	
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	162	133	142	73

PARKE, DAVIS & COMPANY

	1934	1935	1936	1937
Sales.....	27,572	29,049	30,332	31,563
Gross profits.....	18,966	19,790	20,495	21,236
Net income.....	10,182	10,292	10,953	10,806
Profit rate.....	28.56	28.89	30.35	29.61
Equity ratio.....	5.41	6.59	5.85	6.39
Federal corporate income tax.....	991	1,021	1,201	1,209
Undistributed profits tax.....			31	25
Federal capital stock tax.....	79	109	109	124
Federal excises.....	8	6	3	3
Federal-State payroll taxes.....			61	190
State income taxes.....	20	30	35	35
State sales taxes.....	3	5	7	5
Property taxes.....	434	317	319	346
State corporate taxes.....	44	50	46	48
Miscellaneous.....				
Total taxes.....	1,579	1,538	1,812	1,985

THE PARKERSBURG RIG & REEL COMPANY

	1934	1935	1936	1937
Sales.....			4,637	7,008
Gross profits.....			1,559	2,292
Net income.....			817	1,246
Profit rate.....			23.28	32.17
Equity ratio.....			1' 52	7.85
Federal corporate income tax.....			112	198
Undistributed profits tax.....			1	71
Federal capital stock tax.....			7	8
Federal excises.....			3	2
Federal-State payroll taxes.....			9	40
State income taxes.....			2	12
State sales taxes.....			10	13
Property taxes.....			19	20
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			163	264

..... Indicate no data available.
X indicates less than \$1,000.

PARKER-WOLVERINE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		1,591	1,507	2,094
Gross profits.....		442	372	560
Net income.....		278	196	324
Profit rate.....		59.56	29.48	42.63
Equity ratio.....		3.20	3.00	2.91
Federal corporate income tax.....		45	29	48
Undistributed profits tax.....			1	2
Federal capital stock tax.....		3	3	3
Federal excises.....		0	X	X
Federal-State payroll taxes.....			6	21
State income taxes.....		0	0	0
State sales taxes.....		0	0	0
Property taxes.....		7	10	14
State corporate taxes.....		X	1	2
Miscellaneous.....				
Total taxes.....		55	50	90

DAVID PENDER GROCERY CO.

Sales.....	14,051	15,616	16,850	17,416
Gross profits.....	3,576	3,400	3,635	3,603
Net income.....	254	165	286	109
Profit rate.....	11.80	7.57	12.23	4.77
Equity ratio.....	3.16	2.50	3.09	2.80
Federal corporate income tax.....	33	19	39	22
Undistributed profits tax.....	X	X	14	4
Federal capital stock tax.....	3	2	3	3
Federal excises.....				
Federal-State payroll taxes.....	X	X	19	63
State income taxes.....	9	3	10	2
State sales taxes.....	8	4	3	8
Property taxes.....				
State corporate taxes.....	4	3	3	3
Miscellaneous.....	119	126	129	120
Total taxes.....	176	158	220	225

PENICK & FORD, LIMITED, INC.

Sales.....	12,936	13,484	15,403	15,504
Gross profits.....	4,582	4,278	4,513	3,307
Net income.....	1,639	1,226	1,524	316
Profit rate.....	15.21	11.46	14.37	3.07
Equity ratio.....	14.52	13.23	14.64	21.69
Federal corporate income tax.....	234	173	222	44
Undistributed profits tax.....	21	25	16	20
Federal capital stock tax.....				
Federal excises.....	353	339		
Federal-State payroll taxes.....			22	61
State income taxes.....	3	10	9	10
State sales taxes.....	X	1	1	2
Property taxes.....	82	88	94	91
State corporate taxes.....	12	22	23	28
Miscellaneous.....				
Total taxes.....	705	658	387	256

--- indicate no data available.
X indicates less than \$1,000.

PENINSULAR METAL PRODUCTS CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....		1,271	1,794	2,273
Gross profits.....		257	388	515
Net income.....		137	177	198
Profit rate.....		27.18	27.22	31.47
Equity ratio.....		2.04	2.05	1.81
Federal corporate income tax.....		19	25	31
Undistributed profits tax.....			11	2
Federal capital stock tax.....		1	3	3
Federal excises.....				
Federal-State payroll taxes.....			8	36
State income taxes.....				
State sales taxes.....				
Property taxes.....		4	6	6
State corporate taxes.....		1	1	2
Miscellaneous.....				3
Total taxes.....		25	54	83

PENN ELECTRIC SWITCH COMPANY

Sales.....		1,340	1,671	1,746
Gross profits.....		675	783	773
Net income.....		298	327	248
Profit rate.....		24.78	25.02	16.20
Equity ratio.....		13.92	5.38	5.44
Federal corporate income tax.....		46	52	35
Undistributed profits tax.....			13	9
Federal capital stock tax.....		3	5	5
Federal excises.....		1	X	X
Federal-State payroll taxes.....			6	19
State income taxes.....				
State sales taxes.....		X	X	X
Property taxes.....		7	9	8
State corporate taxes.....		X	X	X
Miscellaneous.....		X		
Total taxes.....		57	85	76

PENN TRAFFIC CO.

Sales.....	2,263	2,344	3,112	3,102
Gross profits.....	750	766	1,084	1,065
Net Income.....	63	80	143	214
Profit rate.....	3.92	5.30	9.20	13.05
Equity ratio.....	16.93	17.41	7.24	10.14
Federal corporate income tax.....	11	10	20	32
Undistributed profits tax.....			1	14
Federal capital stock tax.....	2	1	2	2
Federal excises.....	X		X	X
Federal-State payroll taxes.....			6	18
State income taxes.....		4	12	12
State sales taxes.....	2	2	2	3
Property taxes.....	14	14	14	14
State corporate taxes.....	10	5	5	7
Miscellaneous.....	1	1	1	1
Total taxes.....	40	37	63	103

..... indicate no data available.
X indicates less than \$1,000.

PENNSYLVANIA DIXIE CEMENT CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales	4,642	5,025	6,392	5,977
Gross profits	2,684	2,678	3,571	3,042
Net income	(128)	(261)	475	536
Profit rate	(0.53)	(1.15)	2.15	4.50
Equity ratio	1.53	1.56	1.55	.56
Federal corporate income tax			82	1
Undistributed profits tax			97	X
Federal capital stock tax	12	8	9	8
Federal excises				
Federal-State payroll taxes			18	59
State income taxes			20	X
State sales taxes	X	X	X	X
Property taxes	107	102	111	119
State corporate taxes	6	14	18	16
Miscellaneous	13	24	24	36
Total taxes	138	148	379	239

PEOPLES DRUG STORES, INC.

Sales	16,879	19,217	21,121	22,383
Gross profits	5,783	6,138	6,842	7,079
Net income	1,393	1,308	1,601	1,307
Profit rate	23.31	19.59	26.65	20.66
Equity ratio	3.72	3.92	3.43	3.74
Federal corporate income tax	198	186	246	195
Undistributed profits tax			27	53
Federal capital stock tax	12	24	25	21
Federal excises	1	1	1	2
Federal-State payroll taxes			39	101
State income taxes			13	11
State sales taxes	1	1	1	1
Property taxes	73	73	78	131
State corporate taxes	21	23	23	44
Miscellaneous				
Total taxes	306	308	453	559

DR. PEPPER COMPANY

Sales	1,379	1,676	2,663	3,478
Gross profits	932	1,132	1,807	2,316
Net income	268	471	815	1,149
Profit rate	10.29	16.81	29.89	43.72
Equity ratio	39.31	30.37	15.30	10.41
Federal corporate income tax	40	68	135	194
Undistributed profits tax				2
Federal capital stock tax	6	8	18	15
Federal excises	2			
Federal-State payroll taxes			3	11
State income taxes	1	3	7	12
State sales taxes				
Property taxes	11	11	13	14
State corporate taxes	4	4	5	4
Miscellaneous				
Total taxes	64	94	181	252

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE PERFECT CIRCLE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	3,781	3,514	4,313	4,719
Gross profits.....	2,009	1,778	2,153	2,519
Net income.....	636	280	658	691
Profit rate.....	20.73	9.38	20.64	21.43
Equity ratio.....	9.46	11.55	8.21	9.23
Federal corporate income tax.....	78	40	95	99
Undistributed profits tax.....			2	3
Federal capital stock tax.....	6	7	13	10
Federal excises.....	43	36	45	54
Federal-State payroll taxes.....			18	55
State income taxes.....	6	2	1	1
State sales taxes.....	X	X	1	1
Property taxes.....	11	13	14	16
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	144	98	189	239

THE PHARIS TIRE AND RUBBER CO.

Sales.....				5,746
Gross profits.....				369
Net income.....				(204)
Profit rate.....				(13.27)
Equity ratio.....				(13.55)
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				8
Federal excises.....				562
Federal-State payroll taxes.....				37
State income taxes.....				X
State sales taxes.....				X
Property taxes.....				14
State corporate taxes.....				4
Miscellaneous.....				
Total taxes.....				625

PHELPS DODGE CORPORATION

Sales.....	36,335	53,957	64,917	83,120
Gross profits.....	11,853	16,590	25,273	30,146
Net income.....	3,691	7,056	13,476	15,337
Profit rate.....	2.20	4.18	8.02	8.33
Equity ratio.....	19.22	8.08	7.85	5.46
Federal corporate income tax.....	374	566	1,396	1,631
Undistributed profits tax.....			126	87
Federal capital stock tax.....	104	143	120	153
Federal excises.....	2	38	3	3
Federal-State payroll taxes.....			133	556
State income taxes.....	107	137	382	445
State sales taxes.....	56	156	212	397
Property taxes.....	1,813	2,066	1,948	1,212
State corporate taxes.....	7	8	7	16
Miscellaneous.....	15	12	15	25
Total taxes.....	2,477	3,126	4,342	4,525

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

PHILADELPHIA INSULATED WIRE CO.

[\$000's]

	1934	1935	1936	1937
Sales	732	1,020	1,411	1,273
Gross profits	52	86	181	105
Net income	(20)	(13)	73	(4)
Profit rate	(182)	(119)	6.84	(239)
Equity ratio	66.83	48.28	14.09	53.37
Federal corporate income tax	0	0	18	2
Undistributed profits tax				
Federal capital stock tax	1	1	1	1
Federal excises				
Federal-State payroll taxes			4	11
State income taxes			7	1
State sales taxes				
Property taxes	6	6	6	5
State corporate taxes		4	4	4
Miscellaneous				
Total taxes	7	11	40	24

PHILIP MORRIS & COMPANY, LIMITED, INC.

Sales	15,633	26,876	38,467	55,613
Gross profits	3,967	6,788	10,056	13,885
Net income	1,844	2,850	4,427	7,331
Profit rate	32.17	36.89	31.65	44.34
Equity ratio	1.56	1.30	1.43	1.30
Federal corporate income tax	249	393	620	1,118
Undistributed profits tax			144	464
Federal capital stock tax	33	39	66	71
Federal excises	7,866	14,108	20,422	28,485
Federal-State payroll taxes		4	36	101
State income taxes	54	78	95	179
State sales taxes				5
Property taxes	10	23	32	52
State corporate taxes	1	6	9	12
Miscellaneous		4		
Total taxes	8,213	14,655	21,424	30,487

PHILLIPS PETROLEUM COMPANY

Sales	77,520	92,749	105,073	118,722
Gross profits	34,678	57,554	61,421	63,911
Net income	8,078	16,532	20,420	26,804
Profit rate	5.04	10.43	11.81	13.62
Equity ratio	3.95	4.58	5.81	4.17
Federal corporate income tax	531	1,256	1,964	2,094
Undistributed profits tax				
Federal capital stock tax	71	116	254	208
Federal excises	15	33	14	19
Federal-State payroll taxes			159	536
State income taxes	218	489	420	537
State sales taxes	59	17	16	20
Property taxes	827	923	950	974
State corporate taxes	58	58	49	49
Miscellaneous	837	1,172	1,295	1,779
Total taxes	2,616	4,064	5,121	6,216

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

PICTORIAL PAPER PACKAGE CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....		727	832	903
Gross profits.....		251	325	364
Net income.....		32	71	88
Profit rate.....		5.26	11.67	13.95
Equity ratio.....		9.65	5.77	5.26
Federal corporate income tax.....	5	5	9	12
Undistributed profits tax.....			X	3
Federal capital stock tax.....	X	X	X	X
Federal excises.....				
Federal-State payroll taxes.....			3	10
State income taxes.....				
State sales taxes.....				
Property taxes.....	4	4	4	4
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	9	9	16	29

PIERCE GOVERNOR CO.

Sales.....	139	303	478	644
Gross profits.....	43	95	165	243
Net income.....	(8)	36	77	125
Profit rate.....	(4.71)	19.03	19.30	25.89
Equity ratio.....	3.83	4.63	11.11	11.43
Federal corporate income tax.....	0	5	10	18
Undistributed profits tax.....			4	8
Federal capital stock tax.....	X	X	1	1
Federal excises.....	X	X	X	1
Federal-State payroll taxes.....			2	7
State income taxes.....				
State sales taxes.....	X	X	X	X
Property taxes.....	2	1	1	2
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	2	6	18	37

PIG'N WHISTLE CORP.¹

Sales.....	1,824	2,165	2,312	2,365
Gross profits.....	988	1,197	1,273	1,304
Net income.....	(103)	(27)	(4)	(69)
Profit rate.....	(12.69)	(3.49)	(0.56)	(10.02)
Equity ratio.....	2.69	2.75	2.95	2.29
Federal corporate income tax.....	0	0	0	0
Undistributed profits tax.....			0	0
Federal capital stock tax.....	X	1	1	X
Federal excises.....	3	7	6	6
Federal-State payroll taxes.....			17	32
State income taxes.....	X	X	X	X
State sales taxes.....				
Property taxes.....	16	14	15	18
State corporate taxes.....	1	1	1	1
Miscellaneous.....	1	4	2	1
Total taxes.....	21	27	42	58

¹ Fiscal year ended June 30.

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

PILLSBURY FLOUR MILLS COMPANY

[\$000's]

	1931	1935	1936	1937
Sales.....	68,970	66,847	69,130	63,441
Gross profits.....	10,817	10,196	10,823	9,623
Net income.....	2,489	1,701	2,442	369
Profit rate.....	9.32	6.79	9.61	1.53
Equity ratio.....	2.22	3.23	3.02	3.60
Federal corporate income tax.....	366	419	296	-----
Undistributed profits tax.....	-----	-----	74	-----
Federal capital stock tax.....	22	25	26	24
Federal excises.....	9,285	624	-----	-----
Federal-State payroll taxes.....	-----	-----	102	205
State income taxes.....	59	74	83	28
State sales taxes.....	3	3	3	4
Property taxes.....	275	270	265	260
State corporate taxes.....	2	12	9	8
Miscellaneous.....	-----	61	-----	-----
Total taxes.....	10,012	1,491	858	529

PINES WINTER FRONT CO. (DELAWARE)¹

	1931	1935	1936	1937
Sales.....	313	258	739	899
Gross profits.....	126	52	243	191
Net income.....	(254)	(168)	(276)	(143)
Profit rate.....	(18.39)	(12.56)	(21.56)	(10.96)
Equity ratio.....	6.60	3.37	1.48	1.03
Federal corporate income tax.....	-----	-----	-----	-----
Undistributed profits tax.....	-----	-----	-----	-----
Federal capital stock tax.....	1	1	1	1
Federal excises.....	-----	-----	-----	-----
Federal-State payroll taxes.....	-----	-----	7	14
State income taxes.....	-----	-----	-----	-----
State sales taxes.....	-----	-----	-----	-----
Property taxes.....	16	15	20	20
State corporate taxes.....	1	1	1	1
Miscellaneous.....	1	1	X	X
Total taxes.....	19	18	29	36

¹ Fiscal year ended April 30.

PITTSBURG FORGINGS CO.

	1931	1935	1936	1937
Sales.....	-----	-----	-----	9,117
Gross profits.....	-----	-----	-----	1,402
Net income.....	-----	-----	-----	650
Profit rate.....	-----	-----	-----	23.15
Equity ratio.....	-----	-----	-----	1.53
Federal corporate income tax.....	-----	-----	-----	111
Undistributed profits tax.....	-----	-----	-----	-----
Federal capital stock tax.....	-----	-----	-----	5
Federal excises.....	-----	-----	-----	-----
Federal-State payroll taxes.....	-----	-----	-----	62
State income taxes.....	-----	-----	-----	31
State sales taxes.....	-----	-----	-----	23
Property taxes.....	-----	-----	-----	-----
State corporate taxes.....	-----	-----	-----	14
Miscellaneous.....	-----	-----	-----	-----
Total taxes.....	-----	-----	-----	246

---- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

PITTSBURGH PLATE GLASS CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	51,761	68,526	86,110	93,315
Gross profits.....	25,626	36,970	44,845	54,081
Net income.....	6,823	13,721	18,773	22,573
Profit rate.....	7.97	15.12	19.82	23.04
Equity ratio.....	17.57	10.02	10.04	10.34
Federal corporate income tax.....	1,014	2,054	2,889	3,509
Undistributed profits tax.....			263	488
Federal capital stock tax.....	81	132	177	188
Federal excises.....				
Federal-State payroll taxes.....			230	797
State income taxes.....	41	264	297	285
State sales taxes.....	17	16	20	33
Property taxes.....				
State corporate taxes.....	63	153	290	329
Miscellaneous.....				
Total taxes.....	1,216	2,619	4,166	5,629

PITTSBURGH STEEL COMPANY¹

Sales.....	12,896	21,352	35,359	23,677
Gross profits.....	3,742	5,809	9,874	7,071
Net income.....	(112)	246	2,093	183
Profit rate.....	(2.49)	0.57	5.56	0.49
Equity ratio.....	4.19	4.10	3.05	3.72
Federal corporate income tax.....	1		235	X
Undistributed profits tax.....	0	0	0	0
Federal capital stock tax.....	19	26	30	21
Federal excises.....	0	0	0	5
Federal-State payroll taxes.....	0	42	258	359
State income taxes.....	X	X	104	X
State sales taxes.....	3	5	12	9
Property taxes.....	331	321	328	338
State corporate taxes.....	54	92	73	91
Miscellaneous.....				
Total taxes.....	408	486	1,040	823

¹ Fiscal year ended June 30.PORTO RICAN AMER. TOBACCO CO.¹

Sales.....	1,944	1,732	1,454	1,303
Gross profits.....	962	851	679	453
Net income.....	127	406	120	(116)
Profit rate.....	0.61	1.98	0.60	(0.59)
Equity ratio.....	3.05	3.77	4.18	4.66
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	3	3
Federal excises.....				
Federal-State payroll taxes.....			1	2
State income taxes.....				
State sales taxes.....				
Property taxes.....	1	1	1	1
State corporate taxes.....	2	2	2	2
Miscellaneous.....				
Total taxes.....	5	5	7	8

¹ Unusable—Tax data wrong.

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

POTERO SUGAR COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		1,150	1,079	1,194
Gross profits.....		611	448	497
Net income.....		238	115	125
Profit rate.....		6.38	3.04	3.64
Equity ratio.....		2.24	2.57	2.55
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....		X		X
Federal excises.....				
Federal-State pay-roll taxes.....				X
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....		X	X	X
Miscellaneous.....		1	1	1
Total taxes.....		1	1	1

PRATT AND LAMBERT INC.

Sales.....	3,846	4,668	5,431	5,646
Gross profits.....	1,647	2,052	2,316	2,456
Net income.....	260	463	651	665
Profit rate.....	4.55	7.98	10.92	10.98
Equity ratio.....	19.31	14.96	13.20	17.75
Federal corporate income tax.....	42	46	68	46
Undistributed profits tax.....			7	
Federal capital stock tax.....	8	8	8	8
Federal excises.....			9	27
Federal-State pay-roll taxes.....			13	26
State income taxes.....	6	11	17	21
State sales taxes.....	12	13	30	32
Property taxes.....	29	26	3	3
State corporate taxes.....	3	3		
Miscellaneous.....				
Total taxes.....	100	107	155	163

PRESSED STEEL CAR COMPANY, INC.

Sales.....				20,248
Gross profits.....				2,815
Net income.....				985
Profit rate.....				8.18
Equity ratio.....				1.70
Federal corporate income tax.....				30
Undistributed profits tax.....				0
Federal capital stock tax.....				20
Federal excises.....				1
Federal-State pay-roll taxes.....				113
State income taxes.....				10
State sales taxes.....				1
Property taxes.....				180
State corporate taxes.....				45
Miscellaneous.....				0
Total taxes.....				400

... indicate no data available.

X indicates less than \$1,000.

THE PROCTER & GAMBLE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	148,153	170,361	218,874	209,302
Gross profits.....	66,268	70,177	91,569	79,954
Net income.....	22,239	19,638	32,627	18,150
Profit rate.....	19.89	16.94	26.42	14.26
Equity ratio.....	13.36	12.52	7.71	9.56
Federal corporate income tax.....	2,986	2,519	4,697	2,650
Undistributed profits tax.....			593	32
Federal capital stock tax.....	162	340	357	342
Federal excises.....	1,078	959	1,541	1,569
Federal-State pay-roll taxes.....		-78	364	662
State income taxes.....	16	18	43	172
State sales taxes.....	21	24	29	67
Property taxes.....	632	682	769	871
State corporate taxes.....	63	127	126	161
Miscellaneous.....	7,210	9,224	8,878	9,217
Total taxes.....	12,168	13,971	17,424	15,643

PULLMAN INCORPORATED

	1934	1935	1936	1937
Sales.....	73,757	73,133	103,586	136,649
Gross profits.....	29,859	32,111	42,749	53,647
Net income.....	3,625	(70)	7,885	16,295
Profit rate.....	1.50	(0.03)	3.41	6.57
Equity ratio.....	23.00	20.59	15.09	15.19
Federal corporate income tax.....	667	204	1,414	2,655
Undistributed profits tax.....			69	337
Federal capital stock tax.....	166	182	199	202
Federal excises.....	7	2	3	3
Federal-State pay-roll taxes.....			1,104	1,143
State income taxes.....	138	43	76	190
State sales taxes.....	146	179	171	256
Property taxes.....	1,751	1,453	1,668	1,882
State corporate taxes.....	97	110	119	147
Miscellaneous.....	5	1	1	3
Total taxes.....	2,977	2,174	4,824	6,818

THE PURE OIL COMPANY

	1934	1935	1936	1937
Sales.....	79,767	92,417	106,114	119,098
Gross profits.....	31,685	41,392	40,686	43,234
Net income.....	2,949	11,675	10,959	14,048
Profit rate.....	2.30	8.00	7.19	8.42
Equity ratio.....	2.26	2.07	2.25	9.24
Federal corporate income tax.....	523	545	507	370
Undistributed profits tax.....			X	4
Federal capital stock tax.....	157	212		157
Federal excises.....				
Federal-State pay-roll taxes.....			143	300
State income taxes.....	46	50	40	38
State sales taxes.....			23	44
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....	1,852	2,398	2,504	2,906
Total taxes.....	2,578	3,205	3,217	3,819

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE QUAKER OATS CO.

[\$000's]

	1934	1935	1936	1937
Sales.....				72,525
Gross profits.....	18,180	17,490	19,892	18,128
Net income.....	6,312	5,221	7,021	4,798
Profit rate.....	12.56	10.44	13.93	9.59
Equity ratio.....	11.10	11.20	8.85	11.49
Federal corporate income tax.....	784	701	1,178	611
Undistributed profits tax.....			29	
Federal capital stock tax.....	90	73	64	70
Federal excises.....	1,313	410	8	7
Federal-State payroll taxes.....			64	168
State income taxes.....	25	33	34	63
State sales taxes.....				
Property taxes.....	252	325	305	331
State corporate taxes.....	12	19	54	67
Miscellaneous.....				
Total taxes.....	2,476	1,561	1,736	1,317

QUAKER STATE OIL REFINING CORP.

Sales.....		24,674	27,207	30,482
Gross profits.....		5,511	6,113	6,162
Net income.....		1,134	1,334	1,298
Profit rate.....		7.12	8.25	8.03
Equity ratio.....		10.79	8.94	7.36
Federal corporate income tax.....		196	224	203
Undistributed profits tax.....			10	9
Federal capital stock tax.....		20	36	20
Federal excises.....		1	1	1
Federal-State payroll taxes.....			21	66
State income taxes.....		17	55	48
State sales taxes.....		14	16	13
Property taxes.....		81	83	82
State corporate taxes.....		54	73	54
Miscellaneous.....				
Total taxes.....		383	519	496

RADIO CORP. OF AMERICA¹

Sales.....	77,303	87,647	100,230	111,853
Gross profits.....	29,633	35,371	40,395	46,939
Net income.....	5,631	6,447	7,614	11,444
Profit rate.....	6.14	7.61	10.87	16.32
Equity ratio.....	4.87	6.34	2.63	2.77
Federal corporate income tax.....	325	290	300	700
Undistributed profits tax.....	X	X		
Federal capital stock tax.....	20	17	30	30
Federal excises.....				
Federal-State payroll taxes.....	X	X	9	24
State income taxes.....	99	138	160	120
State sales taxes.....				
Property taxes.....				
State corporate taxes.....	25	25	25	25
Miscellaneous.....	7	6	4	3
Total taxes.....	476	476	528	902

¹ Unusable—Parent only.

--- indicate no data available.

X indicates less than \$1,000.

RANDALL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		834	708	367
Gross profits.....		417	331	143
Net income.....		213	44	(49)
Profit rate.....		47.02	10.12	(7.80)
Equity ratio.....		6.83	3.56	2.92
Federal corporate income tax.....		26	28	5
Undistributed profits tax.....				
Federal capital stock tax.....		2	2	2
Federal excises.....			3	7
Federal-State payroll taxes.....				
State income taxes.....				
State sales taxes.....				
Property taxes.....		2	3	3
State corporate taxes.....		X	X	X
Miscellaneous.....				
Total taxes.....		30	36	17

RAYONIER INCORPORATED¹

Sales.....				7,357
Gross profits.....				3,354
Net income.....				1,423
Profit rate.....				
Equity ratio.....				2.31
Federal corporate income tax.....		223	299	406
Undistributed profits tax.....				95
Federal capital stock tax.....		25	45	43
Federal excises.....			16	52
Federal-State payroll taxes.....			1	X
State income taxes.....	X	23	52	98
State sales taxes.....		117	100	129
Property taxes.....		1	1	X
State corporate taxes.....		3	3	1
Miscellaneous.....				
Total taxes.....		392	517	824

¹ Fiscal year ended April 30.RAYTHEON MANUFACTURING COMPANY¹

Sales.....	2,255	3,253	4,414	3,471
Gross profits.....	571	613	937	831
Net income.....	13	(71)	182	488
Profit rate.....	0.87	(4.92)	11.54	32.58
Equity ratio.....	4.01	2.28	1.89	2.77
Federal corporate income tax.....			20	
Undistributed profits tax.....	X	X		
Federal capital stock tax.....	X	2	3	3
Federal excises.....	26	22	17	18
Federal-State payroll taxes.....	X	X	37	47
State income taxes.....	1	1	4	
State sales taxes.....		X		X
Property taxes.....	6	3	1	2
State corporate taxes.....	1	5	8	4
Miscellaneous.....	1	7	X	X
Total taxes.....	35	40	90	74

¹ Reported on fiscal year basis starting May 31, each year as listed.

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE READ DRUG & CHEMICAL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	4,331	4,795	5,407	5,709
Gross profits.....	1,485	1,568	1,837	1,900
Net income.....	241	109	255	273
Profit rate.....	19.94	5.97	12.89	13.73
Equity ratio.....	2.32	1.51	1.55	1.68
Federal corporate income tax.....	33	11	32	34
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	2	2
Federal excises.....	1	1	X	X
Federal-State payroll taxes.....			8	26
State income taxes.....				1
State sales taxes.....		37	13	
Property taxes.....	13	16	21	23
State corporate taxes.....	2	2	2	2
Miscellaneous.....				
Total taxes.....	51	69	78	88

REAL SILK HOSIERY MILLS INCORPORATED

Sales.....		11,891	12,349	11,865
Gross profits.....	5,170	5,329	5,123	4,683
Net income.....	(188)	526	242	105
Profit rate.....	(1.74)	13.67	7.11	3.38
Equity ratio.....	1.80	3.21	2.77	3.88
Federal corporate income tax.....	19	103	91	38
Undistributed profits tax.....			11	34
Federal capital stock tax.....	4	7	8	8
Federal excises.....	5	2	1	1
Federal-State payroll taxes.....			82	186
State income taxes.....	X	X	1	1
State sales taxes.....	6	95	95	84
Property taxes.....	21	22	21	37
State corporate taxes.....	1	12	X	X
Miscellaneous.....	2	6	3	4
Total taxes.....	58	247	313	393

REECE BUTTON HOLE MACHINE CO.

Sales.....	1,049	1,022	1,183	1,191
Gross profits.....	757	839	960	960
Net income.....	191	157	201	193
Profit rate.....	9.63	7.77	9.42	8.83
Equity ratio.....	46.43	35.67	33.34	42.84
Federal corporate income tax.....	26	27	25	24
Undistributed profits tax.....			6	4
Federal capital stock tax.....	2	2	4	1
Federal excises.....				
Federal-State payroll taxes.....			6	19
State income taxes.....	7	13	10	9
State sales taxes.....				
Property taxes.....	8	8	6	5
State corporate taxes.....	X	X	X	X
Miscellaneous.....			X	X
Total taxes.....	43	50	57	65

... indicate no data available.

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() indicate deficit.

REECE FOLDING MACHINE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	109	91	115	161
Gross profits.....	68	76	87	110
Net income.....	5	18	23	32
Profit rate.....	0.43	1.67	2.14	2.96
Equity ratio.....	611.95		173.57	102.14
Federal corporate income tax.....	1	2	2	4
Undistributed profits tax.....			X	1
Federal capital stock tax.....	X	X	X	X
Federal excises.....		X		
Federal-State payroll taxes.....			1	2
State income taxes.....	X	1	1	2
State sales taxes.....				
Property taxes.....				
State corporate taxes.....	X	X	X	X
Miscellaneous.....			X	
Total taxes.....	1	3	4	9

RELIABLE STORES CORP.

Sales.....	6,659	7,898	9,091	9,449
Gross profits.....	2,986	3,536	4,058	4,245
Net income.....	523	936	1,152	1,104
Profit rate.....	7.01	13.09	14.44	13.06
Equity ratio.....	2.58	3.93	3.53	14.62
Federal corporate income tax.....	70	113	167	170
Undistributed profits tax.....			35	27
Federal capital stock tax.....	6	8	8	10
Federal excises.....				
Federal-State payroll taxes.....			14	44
State income taxes.....	5	6	5	18
State sales taxes.....	19	30	16	15
Property taxes.....	74	87	81	87
State corporate taxes.....	2	2	4	4
Miscellaneous.....	5	2	2	6
Total taxes.....	181	248	332	381

RELIAANCE ELECTRIC & ENGINEERING CO.

Sales.....			2,822	3,692
Gross profits.....			1,080	1,242
Net income.....			426	529
Profit rate.....			29.00	30.95
Equity ratio.....			4.25	5.50
Federal corporate income tax.....			76	90
Undistributed profits tax.....			7	51
Federal capital stock tax.....			5	5
Federal excises.....				
Federal-State payroll taxes.....			8	35
State income taxes.....				
State sales taxes.....			X	X
Property taxes.....			14	14
State corporate taxes.....			1	2
Miscellaneous.....				
Total taxes.....			111	197

--- Indicate no data available.

X Indicates less than \$1,000.

REMINGTON RAND, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales	34,726	40,837	47,335	51,104
Gross profits	18,365	21,819	23,848	27,273
Net income	2,975	4,425	5,075	6,140
Profit rate	6.78	11.45	13.55	15.83
Equity ratio	1.29	.78	.70	.80
Federal corporate income tax	102	280	499	584
Undistributed profit tax			73	11
Federal capital stock tax	21	23	45	44
Federal excises				
Federal-State payroll taxes			308	677
State income taxes	13	19	56	92
State sales taxes				
Property taxes	160	162	188	195
State corporate taxes				
Miscellaneous	69	124	82	86
Total taxes	365	608	1,251	1,689

THE RENNER COMPANY

	1934	1935	1936	1937
Sales	1,707	1,627	1,783	1,722
Gross profits	1,238	1,198	1,402	1,292
Net income	153	11	146	66
Profit rate	16.50	1.21	15.64	6.95
Equity ratio	4.60	6.07	7.97	9.55
Federal corporate income tax	29	10	18	11
Undistributed profits tax			2	2
Federal capital stock tax	1	1	2	2
Federal excises	599	574	611	563
Federal-State payroll taxes			1	5
State income taxes				
State sales taxes	219	199	243	253
Property taxes	6	6	7	6
State corporate taxes	1	1	1	1
Miscellaneous	X			X
Total taxes	855	791	885	843

REO MOTOR CAR COMPANY

	1934	1935	1936	1937
Sales	13,836	16,136	13,171	13,069
Gross profits	2,390	3,204	2,276	1,640
Net income	(956)	(214)	(1,393)	(1,942)
Profit rate	(8.90)	(2.04)	(14.49)	(25.26)
Equity ratio	9.71	5.17	7.72	5.74
Federal corporate income tax	0	0	0	0
Undistributed profits tax			0	0
Federal capital stock tax	12	11	9	7
Federal excises	3	X	X	X
Federal-State payroll taxes			34	101
State income taxes	0	0	0	0
State sales taxes				
Property taxes	143	111	94	96
State corporate taxes	36	21	23	34
Miscellaneous				
Total taxes	194	143	160	238

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

SEVERSKY AIRCRAFT CORPORATION ¹

[\$000's]

	1934	1935	1936	1937
Sales		419	589	303
Gross profits		65	118	(94)
Net income		(51)	(68)	(1,202)
Profit rate		(14.48)	(3.94)	(196.94)
Equity ratio		1.93	5.72	.25
Federal corporate income tax				
Undistributed profits tax				
Federal capital stock tax		X	1	3
Federal excises				
Federal-State payroll taxes			5	52
State income taxes		X	2	3
State sales taxes				
Property taxes				8
State corporate taxes		X	X	2
Miscellaneous				X
Total taxes		X	8	68

¹ Now Republic Aviation Corp.

REYMER AND BROTHERS, INCORPORATED

Sales	1,388	1,409	1,588	1,649
Gross profits	479	479	555	572
Net income	(242)	(29)	26	23
Profit rate	(20.28)	(3.06)	2.51	2.21
Equity ratio	2.57	2.24	2.47	2.64
Federal corporate income tax			2	1
Undistributed profits tax			2	1
Federal capital stock tax		1	1	1
Federal excises				
Federal-State payroll taxes			4	13
State income taxes			1	1
State sales taxes			1	1
Property taxes	1	1	1	1
State corporate taxes	31	31	31	31
Miscellaneous	X	2	2	2
Total taxes	32	35	44	51

REYNOLDS SPRING COMPANY

Sales	2,842	4,679	6,140	7,082
Gross profits	593	954	1,518	1,170
Net income	198	466	808	290
Profit rate	10.22	20.77	29.34	11.64
Equity ratio	2.48	1.68	1.35	1.14
Federal corporate income tax	23	63	117	37
Undistributed profits tax			61	X
Federal capital stock tax	4	3	12	10
Federal excises				
Federal-State payroll taxes			23	94
State income taxes				
State sales taxes				
Property taxes	23	23	20	27
State corporate taxes	4	4	4	4
Miscellaneous				
Total taxes	54	93	237	172

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

RICE-STIX DRY GOODS CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		19,168	22,024	21,636
Gross profits.....		2,833	3,789	3,154
Net income.....		104	796	122
Profit rate.....		.98	7.29	1.17
Equity ratio.....		16.72	4.33	3.30
Federal corporate income tax.....		10	102	2
Undistributed profits tax.....				
Federal capital stock tax.....		10	10	10
Federal excises.....				
Federal-State payroll taxes.....			28	81
State income taxes.....		X	16	
State sales taxes.....				
Property taxes.....		70	70	71
State corporate taxes.....		25	27	28
Miscellaneous.....				
Total taxes.....		115	253	192

RICHFIELD OIL CORP.

Sales.....				35,002
Gross profits.....				15,647
Net income.....				1,851
Profit rate.....				
Equity ratio.....				6.24
Federal corporate income tax.....				86
Undistributed profits tax.....				1
Federal capital stock tax.....				159
Federal excises.....				2,155
Federal-State payroll taxes.....				209
State income taxes.....				4
State sales taxes.....				6,795
Property taxes.....				676
State corporate taxes.....				20
Miscellaneous.....				1
Total taxes.....				10,106

THE RICHMAN BROTHERS COMPANY

Sales.....	13,818	14,274	16,927	15,950
Gross profits.....	5,939	6,314	7,042	6,379
Net income.....	2,062	2,405	2,591	1,862
Profit rate.....	14.36	16.33	17.33	12.42
Equity ratio.....	12.36	14.65	9.77	18.26
Federal corporate income tax.....	249	301	355	240
Undistributed profits tax.....			2	0
Federal capital stock tax.....	30	30	33	33
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			51	108
State income taxes.....	5	19	24	14
State sales taxes.....	2	3	4	3
Property taxes.....	181	184	191	187
State corporate taxes.....	14	14	18	17
Miscellaneous.....				
Total taxes.....	481	551	678	602

.... indicate no data available.

X indicates less than \$1,000.

H. W. RICKELS & CO.

[\$000's]

	1934	1935	1936	1937
Sales.....		1,377	1,296	1,493
Gross profits.....		332	293	350
Net income.....		226	169	239
Profit rate.....		22.99	17.85	24.45
Equity ratio.....		6.72	23.44	15.68
Federal corporate income tax.....		33	27	43
Undistributed profits tax.....			0	0
Federal capital stock tax.....		2	3	3
Federal excises.....		0	0	0
Federal-State payroll taxes.....			X	2
State income taxes.....		0	0	0
State sales taxes.....		0	0	0
Property taxes.....		10	11	13
State corporate taxes.....		2	2	2
Miscellaneous.....				
Total taxes.....		47	43	63

RIKE KUMLER CO.

Sales.....	4,868	5,022	6,077	6,781
Gross profits.....	1,059	1,084	1,413	1,691
Net income.....	283	327	453	398
Profit rate.....	10.17	12.74	16.90	10.09
Equity ratio.....	8.50	6.99	5.07	1.60
Federal corporate income tax.....	40	45	67	57
Undistributed profits tax.....			16	13
Federal capital stock tax.....	4	6	4	5
Federal excises.....	X			
Federal-State payroll taxes.....			14	42
State income taxes.....				12
State sales taxes.....				46
Property taxes.....	41	42	45	3
State corporate taxes.....	3	3	3	1
Miscellaneous.....	1	2	1	
Total taxes.....	89	98	150	179

RITTER DENTAL MFG. CO., INC.

Sales.....	1,535	2,310	2,794	3,031
Gross profits.....	290	1,150	1,457	1,426
Net income.....	(351)	354	493	359
Profit rate.....	(6.02)	6.00	8.50	6.42
Equity ratio.....	85.03	31.64	27.48	22.18
Federal corporate income tax.....	0	48	71	65
Undistributed profits tax.....			X	2
Federal capital stock tax.....	X	9	5	5
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			12	35
State income taxes.....	6	4	15	20
State sales taxes.....	1	X	X	X
Property taxes.....	20	23	24	26
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X	X	0
Total taxes.....	27	84	127	153

--- indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

RIVER RAISIN PAPER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	3,584	3,952	4,665	6,024
Gross profits.....	1,240	1,025	1,119	1,361
Net income.....	585	344	348	427
Profit rate.....	17.86	9.72	10.00	12.97
Equity ratio.....	1.75	2.25	2.13	1.82
Federal corporate income tax.....	69	41	41	54
Undistributed profits tax.....			4	1
Federal capital stock tax.....	6	7	3	6
Federal excises.....	1	X	0	0
Federal-State payroll taxes.....	0		16	57
State income taxes.....	0	0	0	0
State sales taxes.....	0	X	X	X
Property taxes.....	70	67	71	72
State corporate taxes.....	4	5	7	7
Miscellaneous.....				
Total taxes.....	150	120	142	196

ROLLINS HOSIERY MILLS, INC.

Sales.....	2,530	2,832	3,270	3,470
Gross profits.....	586	569	674	879
Net income.....	(25)	(55)	(33)	141
Profit rate.....	(1.12)	(2.47)	(1.05)	8.47
Equity ratio.....	10.92	5.13	6.06	7.46
Federal corporate income tax.....				23
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	2	1
Federal excises.....				
Federal-State payroll taxes.....			12	35
State income taxes.....	X	X	X	X
State sales taxes.....	X	X	X	X
Property taxes.....	2	27	25	25
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	29	29	39	84

ROME CABLE CORP.

Sales.....			1,470	4,415
Gross profits.....			235	502
Net income.....			2	110
Profit rate.....			0.09	5.99
Equity ratio.....			12.56	5.81
Federal corporate income tax.....			0	15
Undistributed profits tax.....			0	19
Federal capital stock tax.....			4	3
Federal excises.....			0	0
Federal-State payroll taxes.....			5	19
State income taxes.....			1	3
State sales taxes.....			0	X
Property taxes.....			7	5
State corporate taxes.....			X	X
Miscellaneous.....				
Total taxes.....			17	64

..... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

ROOS BROTHERS INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	3,866	4,512	5,081	5,587
Gross profits.....	1,189	1,490	1,645	1,826
Net income.....	199	360	386	406
Profit rate.....	10.00	16.91	17.64	17.53
Equity ratio.....	4.34	4.32	3.56	3.33
Federal corporate income tax.....	30	54	58	62
Undistributed profits tax.....			9	24
Federal capital stock tax.....	3	3	5	5
Federal excises.....	1	1		
Federal-State payroll taxes.....			9	30
State income taxes.....	2	9	16	16
State sales taxes.....				
Property taxes.....	18	18	19	19
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	X	X	1
Total taxes.....	54	85	116	157

ROYAL TYPEWRITER CO., INCORPORATED¹

	1934	1935	1936	1937
Sales.....	9,942	12,825	16,666	11,098
Gross profits.....	4,757	6,459	9,038	6,078
Net income.....	1,205	2,065	3,274	2,153
Profit rate.....	9.16	23.37	35.72	
Equity ratio.....	6.80	4.75	5.54	6.16
Federal corporate income tax.....	169	323	408	336
Undistributed profits tax.....			171	81
Federal capital stock tax.....	11	20	33	19
Federal excises.....				
Federal-State payroll taxes.....			91	186
State income taxes.....	25	30	48	44
State sales taxes.....	4	5	12	9
Property taxes.....	58	60	62	37
State corporate taxes.....	8	10	18	14
Miscellaneous.....				
Total taxes.....	275	448	843	726

¹ Calendar years 1934-35-36; 1937 fiscal year (7 mo.'s ended 7-31).

RUDD MANUFACTURING CO.

	1934	1935	1936	1937
Sales.....	1,249	1,775	2,446	3,055
Gross profits.....	506	655	870	1,031
Net income.....	(33)	38	57	87
Profit rate.....	(1.21)	1.39	2.12	3.27
Equity ratio.....	76.56	26.48	22.41	10.43
Federal corporate income tax.....		3	1	7
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	3	2
Federal excises.....				
Federal-State payroll taxes.....			8	24
State income taxes.....				
State sales taxes.....				
Property taxes.....	11	10	11	8
State corporate taxes.....	10	9	19	14
Miscellaneous.....				
Total taxes.....	23	24	42	55

..... indicate no data available.

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RYAN AERONAUTICAL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		58	217	353
Gross profits.....		17	73	100
Net income.....		6	5	12
Profit rate.....		4.02	2.25	5.61
Equity ratio.....		4.32	3.41	7.51
Federal corporate income tax.....		4	X	2
Undistributed profits tax.....			X	
Federal capital stock tax.....		X	X	1
Federal excises.....				
Federal-State payroll taxes.....			1	1
State income taxes.....		1	X	1
State sales taxes.....			X	X
Property taxes.....		1	3	
State corporate taxes.....				
Miscellaneous.....			1	
Total taxes.....		6	5	15

SAFEWAY STORES

Sales.....	242,966	294,698	346,178	381,178
Gross profits.....	53,045	58,573	67,982	72,600
Net income.....	4,562	4,178	5,351	4,351
Profit rate.....	10.12	9.21	9.34	7.50
Equity ratio.....	6.91	3.29	2.41	1.12
Federal corporate income tax.....	686	699	950	777
Undistributed profits tax.....			61	
Federal capital stock tax.....	62	89	57	70
Federal excises.....				
Federal-State payroll taxes.....			320	1,050
State income taxes.....	35	58	75	61
State sales taxes.....	137	262	449	602
Property taxes.....	600	607	863	972
State corporate taxes.....	84	196	308	375
Miscellaneous.....	197	233	299	342
Total taxes.....	1,801	2,144	3,385	4,112

SCHENLEY DISTILLERS CORP.

Sales.....	40,275	63,046	82,220	83,592
Gross profits.....	30,816	48,274	61,423	61,622
Net income.....	8,643	9,829	10,068	9,823
Profit rate.....	43.15	27.28	25.42	13.83
Equity ratio.....	3.02	5.18	2.16	1.57
Federal corporate income tax.....	1,301	1,279	1,775	1,961
Undistributed profits tax.....				
Federal capital stock tax.....	87	117	121	103
Federal excises.....	16,295	29,251	38,400	37,493
Federal-State payroll taxes.....			62	253
State income taxes.....	12	35	121	160
State sales taxes.....	723	2,024	3,295	3,390
Property taxes.....	1,755	1,052	418	186
State corporate taxes.....				
Miscellaneous.....	9	7	19	3
Total taxes.....	20,182	33,765	44,211	43,339

.... indicate no data available.

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THE SCHIFF COMPANY

[\$000's]

	1934	1935	1936	1937
Sales	10,900	11,753	13,040	13,504
Gross profits	3,754	4,293	4,744	5,002
Net income	514	436	561	470
Profit rate	16.49	13.31	17.28	10.63
Equity ratio	8.75	4.22	2.73	7.28
Federal corporate income tax	69	57	80	65
Undistributed profits tax			8	
Federal capital stock tax	6	6	6	6
Federal excises				
Federal-State payroll taxes			23	61
State income taxes	6	7	5	9
State sales taxes	88	98	102	126
Property taxes	13	17	18	23
State corporate taxes	3	4	5	6
Miscellaneous	41	23	35	48
Total taxes	226	212	282	344

SCOTTEN DILLION COMPANY

Sales	4,216	4,229	4,304	4,325
Gross profits	2,763	2,725	2,787	2,780
Net income	477	523	648	529
Profit rate	11.47	12.43	15.34	12.58
Equity ratio	32.06	40.41	35.22	41.65
Federal corporate income tax	57	77	88	71
Undistributed profits tax				
Federal capital stock tax	4	4	7	7
Federal excises	1,709	1,561	1,525	1,523
Federal-State payroll taxes			6	18
State income taxes	4	4	5	4
State sales taxes	0	0	0	0
Property taxes	34	33	32	54
State corporate taxes	8	9	8	8
Miscellaneous			0	0
Total taxes	1,816	1,688	1,671	1,685

SCOTT PAPER COMPANY

Sales	9,012	10,207	11,624	13,844
Gross profits	4,533	4,981	5,609	6,133
Net income	1,083	1,149	1,291	1,791
Profit rate	16.27	17.39	19.45	16.49
Equity ratio	10.73	8.84	6.91	1.27
Federal corporate income tax	171	168	201	236
Undistributed profits tax			21	58
Federal capital stock tax	11	22	14	18
Federal excises	109	22		
Federal-State payroll taxes			19	65
State income taxes	X	43	71	X 60
State sales taxes				
Property taxes	13	15	17	19
State corporate taxes		29	65	65
Miscellaneous				
Total taxes	304	299	408	521

.... indicate no data available.
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SCRANTON LACE CO.

[\$000's]

	1934	1935	1936	1937
Sales.....			3,585	3,398
Gross profits.....			1,579	1,210
Net income.....			735	343
Profit rate.....			26.13	12.13
Equity ratio.....			11.26	23.77
Federal corporate income tax.....			86	28
Undistributed profits tax.....			7	
Federal capital stock tax.....			9	6
Federal excises.....				
Federal-State payroll taxes.....			14	36
State income taxes.....			48	8
State sales taxes.....				
Property taxes.....			20	18
State corporate taxes.....			18	15
Miscellaneous.....				
Total taxes.....			202	111

SCRUGGS-VANDERVOORT-BARNEY, INC.¹

Sales.....		13,658	14,763	16,469
Gross profits.....		4,295	4,732	5,373
Net income.....		347	661	890
Profit rate.....				
Equity ratio.....		1.62	1.89	1.56
Federal corporate income tax.....			11	25
Undistributed profits tax.....				17
Federal capital stock tax.....	12	3	8	4
Federal excises.....				9
Federal-State payroll taxes.....			10	41
State income taxes.....		X	5	9
State sales taxes.....	15	32	2	
Property taxes.....	3	2	3	3
State corporate taxes.....	15	15	18	20
Miscellaneous.....	X	X		
Total taxes.....	45	52	57	128

¹ Fiscal year ended July 31.

SCULLIN STEEL CO.

Sales.....	596	625	2,652	5,321
Gross profits.....	259	216	604	1,886
Net income.....	(19)	(36)	435	1,210
Profit rate.....	(0.27)	(0.52)	6.56	
Equity ratio.....	.30	.21	.21	1.28
Federal corporate income tax.....			16	137
Undistributed profits tax.....				
Federal capital stock tax.....	3	2	10	9
Federal excises.....				
Federal-State payroll taxes.....			12	63
State income taxes.....			X	9
State sales taxes.....				X
Property taxes.....	35	28	47	51
State corporate taxes.....	3	2	4	4
Miscellaneous.....	7	11	X	X
Total taxes.....	48	43	89	273

... Indicate no data available.

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() indicate deficit.

THE SEAGRANE CORPORATION

[\$'000's]

	1934	1935	1936	1937
Sales	611	853	917	1,731
Gross profits	201	296	306	615
Net income	(86)	4	(31)	152
Profit rate	(6.70)	0.30	(2.87)	13.71
Equity ratio	8.35	12.10	9.60	3.52
Federal corporate income tax				23
Undistributed profits tax				1
Federal capital stock tax	2	2	2	
Federal excises				17
Federal-State payroll taxes			4	
State income taxes				
State sales taxes				5
Property taxes	6	8	6	1
State corporate taxes	2	1	1	
Miscellaneous	X	X	X	X
Total taxes	10	11	13	47

SEEMAN BROTHERS, INCORPORATED

Sales	13,279	14,103	15,956	15,310
Gross profits	1,593	1,658	1,826	1,512
Net income	474	588	604	397
Profit rate	11.71	14.15	14.31	7.30
Equity ratio	11.71	10.76	4.42	5.41
Federal corporate income tax	104	51	69	90
Undistributed profits tax				6
Federal capital stock tax	5	5	6	
Federal excises				30
Federal-State payroll taxes			14	
State income taxes	33	17	30	37
State sales taxes	8	9	9	10
Property taxes	7	7	7	7
State corporate taxes				
Miscellaneous				
Total taxes	157	89	135	180

SEIBERLING RUBBER CO.

Sales		6,109	7,327	8,807
Gross profits		1,291	1,944	2,092
Net income		(421)	349	243
Profit rate		(9.69)	7.84	5.48
Equity ratio		63	68	69
Federal corporate income tax			X	X
Undistributed profits tax				X
Federal capital stock tax		3	4	4
Federal excises		352	411	398
Federal-State payroll taxes			14	54
State income taxes		X	X	X
State sales taxes		X	X	X
Property taxes		31	28	20
State corporate taxes		4	3	4
Miscellaneous		2	2	2
Total taxes		392	462	480

... indicate no data available.

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() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18397

SENTRY SAFETY CONTROL CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	52	56	108	105
Gross profits.....	34	33	36	37
Net income.....	10	4	2	
Profit rate.....	3.75	1.50	0.91	(0.23)
Equity ratio.....	30.74	32.78	56.12	10.78
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	X	X	X	X
Federal excises.....				
Federal-State payroll taxes.....			X	1
State income taxes.....				
State sales taxes.....				
Property taxes.....			X	X
State corporate taxes.....	1	1	2	1
Miscellaneous.....			X	X
Total taxes.....	1	1	2	2

SERRICK CORPORATION

Sales.....		200	2,694	2,461
Gross profits.....		107	788	394
Net income.....		48	286	(91)
Profit rate.....		43.13	25.64	(9.52)
Equity ratio.....		4.22	1.96	4.13
Federal corporate income tax.....		6	4	12
Undistributed profits tax.....				
Federal capital stock tax.....	X		3	4
Federal excises.....			1	1
Federal-State payroll taxes.....			2	41
State income taxes.....				
State sales taxes.....			X	8
Property taxes.....	1		1	15
State corporate taxes.....			1	1
Miscellaneous.....			6	X
Total taxes.....		7	18	82

SERVEL, INC.

Sales.....		19,233	24,881	30,328
Gross profits.....		7,068	10,718	12,948
Net income.....		2,582	5,085	5,723
Profit rate.....		25.20	37.16	40.75
Equity ratio.....		2.88	3.03	2.81
Federal corporate income tax.....		408	670	768
Undistributed profits tax.....				
Federal capital stock tax.....		39	58	60
Federal excises.....		879	1,154	1,402
Federal-State payroll taxes.....			63	197
State income taxes.....		5	4	6
State sales taxes.....		2	5	3
Property taxes.....		99	113	139
State corporate taxes.....			X	X
Miscellaneous.....		3		
Total taxes.....		1,436	2,057	2,575

... indicate no data available.

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SETON LEATHER CO

[\$'000's]

	1934	1935	1936	1937
Sales.....	1,159	1,719	2,166	2,250
Gross profits.....	150	278	290	293
Net income.....	26	133	137	105
Profit rate.....	3.21	14.47	14.01	10.42
Equity ratio.....	9.98	3.22	2.22	3.21
Federal corporate income tax.....	4	20	19	15
Undistributed profits tax.....			11	6
Federal capital stock tax.....	1	1	1	3
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....				8
State income taxes.....				
State sales taxes.....				
Property taxes.....	5	6	6	6
State corporate taxes.....	X		X	X
Miscellaneous.....				
Total taxes.....	10	27	37	38

SHARON STEEL CORPORATION

Sales.....	11,246	15,625	21,186	20,206
Gross profits.....	3,268	4,346	4,970	4,765
Net income.....	387	1,414	1,708	1,740
Profit rate.....	2.00	10.02	11.31	11.09
Equity ratio.....	2.01	1.30	2.94	13.14
Federal corporate income tax.....	35	84	198	233
Undistributed profits tax.....			75	84
Federal capital stock tax.....	8	15	20	10
Federal excises.....				
Federal-State payroll taxes.....			40	148
State income taxes.....		19	52	42
State sales taxes.....				
Property taxes.....	90	84	79	84
State corporate taxes.....	10	29	44	34
Miscellaneous.....				
Total taxes.....	143	231	508	635

SHARP AND DOHME INCORPORATED

Sales.....	8,365	8,556	9,519	9,778
Gross profits.....	5,174	4,952	5,547	5,682
Net income.....	1,096	903	1,366	1,227
Profit rate.....	11.14	9.38	13.99	12.07
Equity ratio.....	30.95	25.05	12.01	18.55
Federal corporate income tax.....	146	17	92	76
Undistributed profits tax.....				
Federal capital stock tax.....	10	9	22	18
Federal excises.....		21	6	3
Federal-State payroll taxes.....			26	87
State income taxes.....	1	17	13	13
State sales taxes.....	2	2	2	2
Property taxes.....	64	57	56	56
State corporate taxes.....	12	35	67	66
Miscellaneous.....	1	1	2	1
Total taxes.....	236	159	286	322

. indicate no data available.

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() indicate deficit.

SIGNAL OIL AND GAS CO.

[\$'000's]

	1934	1935	1936	1937
Sales.....	13,407	14,363	20,374	23,669
Gross profits.....	3,832	4,765	6,520	7,716
Net income.....	229	251	1,208	1,323
Profit rate.....	5.85	6.77	27.84	32.67
Equity ratio.....	0.24	0.18	0.30	0.47
Federal corporate income tax.....	15	2	86	212
Undistributed profits tax.....				
Federal capital stock tax.....	2	2	14	15
Federal excises.....	X	1	1	1
Federal-State payroll taxes.....			14	53
State income taxes.....	4	X	21	53
State sales taxes.....	2	2	3	6
Property taxes.....	48	48	65	75
State corporate taxes.....	1	2	2	2
Miscellaneous.....	X			
Total taxes.....	72	57	206	417

SIGNODE STEEL STRAPPING CO.

Sales.....	2,482	2,820	3,169	3,707
Gross profits.....	1,060	1,215	1,216	1,402
Net income.....	109	235	455	494
Profit rate.....	6.82	13.81	27.64	28.30
Equity ratio.....	7.83	2.78	2.19	2.51
Federal corporate income tax.....	13	26	70	74
Undistributed profits tax.....			4	4
Federal capital stock tax.....		6	6	6
Federal excises.....	X	X		X
Federal-State payroll taxes.....			6	21
State income taxes.....				
State sales taxes.....	1	1	1	1
Property taxes.....	8	10	11	14
State corporate taxes.....	1	2	3	3
Miscellaneous.....				
Total taxes.....	23	45	101	123

THE SILEX COMPANY

Sales.....				2,343
Gross profits.....				936
Net income.....				369
Profit rate.....				61.71
Equity ratio.....				3.02
Federal corporate income tax.....				53
Undistributed profits tax.....				34
Federal capital stock tax.....				8
Federal excises.....				
Federal-State payroll taxes.....				11
State income taxes.....				8
State sales taxes.....				
Property taxes.....				5
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				119

---- indicate no data available.

X indicates less than \$1,000.

SIMMONS COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	26,187	30,692	41,332	44,360
Gross profits.....	8,925	10,992	15,165	15,106
Net income.....	165	2,700	6,116	5,176
Profit rate.....	0.62	10.00	23.69	18.22
Equity ratio.....	1.43	1.55	1.43	1.43
Federal corporate income tax.....	27	250	834	496
Undistributed profits tax.....				
Federal capital stock tax.....	38	41	74	71
Federal excises.....	712	406		
Federal-State payroll taxes.....			160	390
State income taxes.....	10	23	234	160
State sales taxes.....				
Property taxes.....	434	408	452	480
State corporate taxes.....	29	57	59	25
Miscellaneous.....				
Total taxes.....	1,250	1,185	1,813	1,622

SIVYER STEEL CASTING COMPANY

Sales.....	728	1,165	1,978	2,631
Gross profits.....	225	316	556	762
Net income.....	5	48	200	323
Profit rate.....	0.32	3.13	12.98	20.64
Equity ratio.....	70.39	60.82	15.34	12.55
Federal corporate income tax.....	X	5	26	45
Undistributed profits tax.....			12	22
Federal capital stock tax.....	2	2	2	3
Federal excises.....				
Federal-State payroll taxes.....			11	34
State income taxes.....	X	1	7	11
State sales taxes.....				
Property taxes.....	12	11	18	14
State corporate taxes.....	X	X	X	X
Miscellaneous.....	3	8		
Total taxes.....	17	27	76	129

SKELLY OIL COMPANY AND SUBSIDIARIES, CONSOLIDATED

Sales.....		29,326	35,749	41,484
Gross profits.....		15,105	19,253	23,092
Net income.....		3,551	5,934	7,635
Profit rate.....		8.91	13.24	15.17
Equity ratio.....		2.50	2.19	2.35
Federal corporate income tax.....		269	411	458
Undistributed profits tax.....				
Federal capital stock tax.....		42	36	35
Federal excises.....		42	31	40
Federal-State payroll taxes.....			55	164
State income taxes.....		20	30	83
State sales taxes.....		197	289	477
Property taxes.....		257	336	344
State corporate taxes.....		23	32	58
Miscellaneous.....		34	36	32
Total taxes.....		884	1,256	1,691

--- indicate no data available.

X indicates less than \$1,000.

L. C. SMITH & CORONA TYPEWRITERS, INC.

[\$900's]

	1934	1935	1936	1937
Sales.....		10,336	13,069	11,914
Gross profits.....		5,914	7,328	6,395
Net income.....		981	1,515	716
Profit rate.....		16.90	18.40	8.85
Equity ratio.....		2.21	2.02	2.17
Federal corporate income tax.....		142	169	179
Undistributed profits tax.....			100	76
Federal capital stock tax.....		13	14	14
Federal excises.....				
Federal-State payroll taxes.....		57	204	226
State income taxes.....		26	75	73
State sales taxes.....		9	16	11
Property taxes.....		37	43	45
State corporate taxes.....		15	11	11
Miscellaneous.....		1	4	2
Total taxes.....		300	636	637

SNIDER PACKING CORPORATION

	1934	1935	1936	1937
Sales.....	5,559	6,242	5,496	6,046
Gross profits.....	1,687	1,774	1,635	1,393
Net income.....	832	787	691	349
Profit rate.....	20.52	22.10	18.88	9.40
Equity ratio.....	.79	1.97	2.57	3.01
Federal corporate income tax.....	103	99	93	43
Undistributed profits tax.....			5	1
Federal capital stock tax.....	4	8	8	8
Federal excises.....	2	2	2	1
Federal-State payroll taxes.....			16	47
State income taxes.....	25	31	31	14
State sales taxes.....	1	1	X	2
Property taxes.....	22	22	23	23
State corporate taxes.....	X	X	X	1
Miscellaneous.....		2		
Total taxes.....	157	165	178	140

SOCONY-VACUUM OIL COMPANY, INC.

	1934	1935	1936	1937
Sales.....	456,016	454,064	498,528	552,785
Gross profits.....	213,349	193,815	211,754	240,581
Net income.....	34,838	31,003	56,017	73,338
Profit rate.....	4.86	4.34	7.76	9.02
Equity ratio.....	3.83	4.12	4.03	2.98
Federal corporate income tax.....	2,940	1,466	4,812	6,558
Undistributed profits tax.....			1,913	1,925
Federal capital stock tax.....	974	343	524	584
Federal excises.....	17,462	18,496	20,034	21,239
Federal-State payroll taxes.....			657	2,169
State income taxes.....	258	233	332	606
State sales taxes.....	49,849	56,880	64,994	69,719
Property taxes.....	6,443	5,681	5,762	6,123
State corporate taxes.....	798	617	1,011	1,063
Miscellaneous.....	1,078	1,837	2,320	3,355
Total taxes.....	79,802	85,553	101,639	113,341

.... Indicate no data available.

X indicates less than \$1,000.

SOLAR MANUFACTURING CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....			1,830	1,887
Gross profits.....			633	489
Net income.....			245	71
Profit rate.....			58.09	16.29
Equity ratio.....			2.11	3.55
Federal corporate income tax.....			37	8
Undistributed profits tax.....			19	1
Federal capital stock tax.....			3	3
Federal excises.....				
Federal-State payroll taxes.....			7	23
State income taxes.....			17	1
State sales taxes.....			X	X
Property taxes.....				
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....			83	36

BOSS MANUFACTURING CO.

Sales.....		886	1,140	1,518
Gross profits.....		318	447	603
Net income.....		120	233	372
Profit rate.....		34.98	49.50	65.65
Equity ratio.....		4.36	3.30	6.22
Federal corporate income tax.....		20	37	84
Undistributed profits tax.....			28	15
Federal capital stock tax.....		X	2	2
Federal excises.....		X	X	X
Federal-State payroll taxes.....			4	12
State income taxes.....				
State sales taxes.....		X	X	
Property taxes.....		1	1	2
State corporate taxes.....		X	X	X
Miscellaneous.....		X		
Total taxes.....		21	72	115

SOUNDVIEW PULP COMPANY

Sales.....	1,704	2,600	3,115	6,537
Gross profits.....	635	856	1,143	3,076
Net income.....	218	304	688	2,029
Profit rate.....		7.31	10.65	18.57
Equity ratio.....	11.37	8.98	2.78	3.09
Federal corporate income tax.....	23	42	100	360
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	13	14
Federal excises.....				
Federal-State payroll taxes.....			5	39
State income taxes.....				
State sales taxes.....		4	8	10
Property taxes.....	20	24	26	77
State corporate taxes.....	5	6	8	16
Miscellaneous.....				
Total taxes.....	54	81	160	516

... indicate no data available.

X indicates less than \$1,000.

SOUTH BEND LATHE WORKS

[\$000's]

	1934	1935	1936	1937
Sales.....			1,913	2,378
Gross profits.....			823	1,040
Net income.....			358	462
Profit rate.....			30.93	34.64
Equity ratio.....			6.22	5.99
Federal corporate income tax.....			51	59
Undistributed profits tax.....			20	18
Federal capital stock tax.....			7	5
Federal excises.....				
Federal-State payroll taxes.....			7	26
State income taxes.....				
State sales taxes.....			X	16
Property taxes.....			8	10
State corporate taxes.....				
Miscellaneous.....			1	1
Total taxes.....			94	135

SOUTH COAST CORPORATION

Sales.....			4,256	4,569
Gross profits.....			1,423	1,601
Net income.....			652	462
Profit rate.....			12.00	8.49
Equity ratio.....			1.20	1.03
Federal corporate income tax.....			90	57
Undistributed profits tax.....			34	3
Federal capital stock tax.....			5	5
Federal excises.....				226
Federal-State payroll taxes.....			4	17
State income taxes.....			18	12
State sales taxes.....				X
Property taxes.....			47	51
State corporate taxes.....			8	7
Miscellaneous.....			1	2
Total taxes.....			207	380

A. G. SPALDING & BROS., INC.

Sales.....		13,326	13,987	13,751
Gross profits.....		4,977	5,279	5,155
Net income.....		(628)	(888)	(283)
Profit rate.....		(5.06)	(7.90)	(2.59)
Equity ratio.....		18.75	14.11	14.04
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....		13	8	8
Federal excises.....		553	596	572
Federal-State payroll taxes.....			33	101
State income taxes.....				
State sales taxes.....		3	6	7
Property taxes.....		126	170	152
State corporate taxes.....		44	41	41
Miscellaneous.....		15	32	5
Total taxes.....		754	886	886

.... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

SPEAR AND COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	6,511	7,022	9,851	9,703
Gross profits.....	2,078	2,335	3,771	3,380
Net income.....	148	352	1,224	775
Profit rate.....	2.14	4.88	16.21	9.47
Equity ratio.....	6.26	5.83	2.21	2.23
Federal corporate income tax.....			24	119
Undistributed profits tax.....				22
Federal capital stock tax.....	3	4	6	6
Federal excises.....				
Federal-State payroll taxes.....			24	58
State income taxes.....			X	45
State sales taxes.....	5	5	10	7
Property taxes.....	112	114	102	118
State corporate taxes.....	16	17	25	23
Miscellaneous.....		1	2	2
Total taxes.....	136	141	193	400

SPENCER KELLOGG & SONS, INC.¹

Sales.....		25,820	35,892	45,629
Gross profits.....		4,037	4,957	5,718
Net income.....		1,297	1,634	1,863
Profit rate.....		7.35	9.01	9.09
Equity ratio.....		9.36	3.51	1.88
Federal corporate income tax.....		163	139	188
Undistributed profits tax.....				
Federal capital stock tax.....		9	15	16
Federal excises.....				
Federal-State payroll taxes.....			9	28
State income taxes.....		9	18	27
State sales taxes.....				
Property taxes.....		108	104	109
State corporate taxes.....				2
Miscellaneous.....				
Total taxes.....		289	285	370

¹ Fiscal year ended Aug. 31.

SPERRY CORPORATION

Sales.....			14,684	15,361
Gross profits.....	3,378	3,101	3,611	6,040
Net income.....	2,166	1,893	2,913	3,692
Profit rate.....	28.47	21.85	31.25	34.86
Equity ratio.....	5.62	6.84	4.73	1.97
Federal corporate income tax.....				
Undistributed profits tax.....	255	181	269	585
Federal capital stock tax.....	103	110	87	151
Federal excises.....				
Federal-State payroll taxes.....			38	189
State income taxes.....				
State sales taxes.....	X	1	1	
Property taxes.....	29	36	38	50
State corporate taxes.....				
Miscellaneous.....	8	8	4	
Total taxes.....	395	336	437	975

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SPICER MANUFACTURING CORP.

(\$000's)

	1934	1935	1936	1937
Sales.....			13,559	15,059
Gross profits.....	2,098	2,177	3,502	3,762
Net income.....	751	696	1,739	1,515
Profit rate.....	10.28	9.03	21.66	17.80
Equity ratio.....	8.66	6.05	4.45	3.14
Federal corporate income tax.....	78	64	231	186
Undistributed profits tax.....			16	26
Federal capital stock tax.....	19	19	22	21
Federal excises.....	7	6	8	7
Federal-State payroll taxes.....			48	161
State income taxes.....		7	34	20
State sales taxes.....		1	2	4
Property taxes.....	62	61	65	72
State corporate taxes.....	7	21	23	23
Miscellaneous.....				
Total taxes.....	173	179	449	521

SPIEGEL, INCORPORATED

Sales.....	26,262	34,012	44,695	56,118
Gross profits.....	11,180	13,704	17,566	20,381
Net income.....	3,348	2,867	4,618	3,254
Profit rate.....	32.69	18.27	26.35	14.08
Equity ratio.....	1.61	2.49	1.29	1.54
Federal corporate income tax.....	221	192	198	264
Undistributed profits tax.....			158	
Federal capital stock tax.....	56	50	56	60
Federal excises.....				1
Federal-State payroll taxes.....			37	149
State income taxes.....				
State sales taxes.....	23	38	72	90
Property taxes.....	30	22	80	91
State corporate taxes.....	3	4	4	7
Miscellaneous.....	X			
Total taxes.....	333	306	605	662

A. E. STALEY MANUFACTURING CO.

Sales.....		15,606	21,655	22,730
Gross profits.....		4,313	5,955	3,824
Net income.....		582	1,959	131
Profit rate.....		4.01	12.41	.85
Equity ratio.....		2.47	1.57	1.83
Federal corporate income tax.....		52	229	4
Undistributed profits tax.....			25	0
Federal capital stock tax.....		22	23	20
Federal excises.....		141	4	0
Federal-State payroll taxes.....			30	88
State income taxes.....		X	1	2
State sales taxes.....		1	2	2
Property taxes.....		117	117	124
State corporate taxes.....		5	5	5
Miscellaneous.....		16	6	6
Total taxes.....		354	442	251

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() Indicate deficit.

STANDARD BRANDS INCORPORATED

[\$'000's]

	1934	1935	1936	1937
Sales.....	100,449	102,040	114,976	122,517
Gross profits.....	47,784	47,916	50,386	47,059
Net income.....	16,097	14,890	17,302	11,851
Profit rate.....	27.00	24.81	28.19	16.89
Equity ratio.....	11.77	12.47	8.25	11.82
Federal corporate income tax.....	2,012	1,985	2,561	1,742
Undistributed profits tax.....			70	2
Federal capital stock tax.....	89	194	258	220
Federal excises.....	918	2,142	2,252	2,441
Federal-State payroll taxes.....			105	502
State income taxes.....	165	191	232	360
State sales taxes.....	10	14	8	12
Property taxes.....	415	444	526	484
State corporate taxes.....	93	109	123	162
Miscellaneous.....	37	32	47	62
Total taxes.....	3,739	5,111	6,182	5,987

THE STANDARD COMMERCIAL TOBACCO COMPANY, INC.

	1934	1935	1936	1937
Sales.....	58	629	222	-----
Gross profits.....	13	209	37	50
Net income.....	139	286	150	(96)
Profit rate.....	6.75	10.35	5.10	(3.63)
Equity ratio.....	7.29	4.52	2.64	2.09
Federal corporate income tax.....	X	32		
Undistributed profits tax.....				
Federal capital stock tax.....	5	2	2	X
Federal excises.....				
Federal-State payroll taxes.....			X	2
State income taxes.....				
State sales taxes.....	X	X	1	X
Property taxes.....	X	X	X	X
State corporate taxes.....	3	9	3	2
Miscellaneous.....	X			
Total taxes.....	8	43	6	4

STANDARD OIL COMPANY OF CALIFORNIA

	1934	1935	1936	1937
Sales.....	130,986	134,772	153,253	192,146
Gross profits.....	78,929	74,388	80,062	106,686
Net income.....	20,000	19,722	24,876	45,568
Profit rate.....	3.73	3.64	4.56	8.24
Equity ratio.....	59.85	30.09	27.81	30.13
Federal corporate income tax.....	1,652	1,108	1,545	4,313
Undistributed profits tax.....			1	
Federal capital stock tax.....	348	343	328	345
Federal excises.....	377	400	446	374
Federal-State payroll taxes.....			335	1,203
State income taxes.....	68	176	297	348
State sales taxes.....			120	408
Property taxes.....	3,379	3,659	3,823	4,138
State corporate taxes.....				
Miscellaneous.....	171	332	243	429
Total taxes.....	5,995	6,018	7,138	11,558

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STANDARD OIL COMPANY OF INDIANA

[\$000's]

	1934	1935	1936	1937
Sales.....	278,180	293,219	331,176	365,521
Gross profits.....	132,206	138,127	148,983	172,873
Net income.....	20,833	34,457	54,568	65,373
Profit rate.....	3.31	5.25	8.22	9.56
Equity ratio.....	15.42	14.17	12.76	12.37
Federal corporate income tax.....	1,968	3,661	6,399	7,256
Undistributed profits tax.....			152	415
Federal capital stock tax.....	507	820	1,001	1,029
Federal excises.....	17,920	18,984	21,274	22,212
Federal-State payroll taxes.....			588	1,871
State income taxes.....	24	152	170	574
State sales taxes.....	48,829	51,997	59,113	64,287
Property taxes.....	4,667	4,627	4,820	5,043
State corporate taxes.....	196	227	281	361
Miscellaneous.....	220	858	905	877
Total taxes.....	74,331	81,326	94,703	103,925

STANDARD OIL CO. INC.—KENTUCKY

Sales.....		40,258	45,531	53,121
Gross profits.....		13,759	18,346	19,637
Net income.....		2,468	4,589	5,068
Profit rate.....		7.31	13.48	14.77
Equity ratio.....		7.87	6.25	6.04
Federal corporate income tax.....		270	642	732
Undistributed profits tax.....				
Federal capital stock tax.....		34	28	37
Federal excises.....				
Federal-State payroll taxes.....		X	55	274
State income taxes.....		24	154	166
State sales taxes.....				
Property taxes.....		456	449	497
State corporate taxes.....		14	13	19
Miscellaneous.....		316	307	280
Total taxes.....		1,114	1,648	2,005

STANDARD OIL CO., OF NEBRASKA

Sales.....	5,936	5,924	5,942	5,334
Gross profits.....	1,437	1,805	1,598	1,426
Net income.....	(595)	(21)	34	(96)
Profit rate.....	(11.24)	(.40)	.67	(1.97)
Equity ratio.....	16.78	24.07	21.99	24.70
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	4	6	5	4
Federal excises.....				
Federal-State payroll taxes.....			8	22
State income taxes.....				
State sales taxes.....				
Property taxes.....	107	96	95	95
State corporate taxes.....	2	2	2	2
Miscellaneous.....	2	2	2	2
Total taxes.....	115	106	112	215

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() indicate deficit.

THE STANDARD OIL COMPANY OF OHIO

[\$000's]

	1934	1935	1936	1937
Sales.....	42,074	44,380	51,441	57,864
Gross profits.....	12,978	15,192	18,003	19,181
Net income.....	(1,835)	3,060	5,336	4,286
Profit rate.....	(4.14)	6.53	10.98	8.36
Equity ratio.....	8.54	8.68	6.13	5.31
Federal corporate income tax.....	0	268	640	503
Undistributed profits tax.....	0	0	353	217
Federal capital stock tax.....	42	52	63	74
Federal excises.....	0	1	6	9
Federal-State payroll taxes.....	0	0	82	267
State income taxes.....	0	0	23	9
State sales taxes.....	0	0	0	0
Property taxes.....	500	478	576	575
State corporate taxes.....	37	35	37	41
Miscellaneous.....	76	87	61	128
Total taxes.....	655	921	1,841	1,823

THE STANDARD PRODUCTS CO.

Sales.....			5,354	3,598
Gross profits.....			1,404	655
Net income.....			843	64
Profit rate.....			55.20	4.33
Equity ratio.....			2.93	4.38
Federal corporate income tax.....		182	126	21
Undistributed profits tax.....		30	67	7
Federal capital stock tax.....		12	12	10
Federal excises.....		0	0	0
Federal-State payroll taxes.....		4	20	28
State income taxes.....		0	0	0
State sales taxes.....		X	0	0
Property taxes.....		2	5	9
State corporate taxes.....		X	1	2
Miscellaneous.....		X		X
Total taxes.....		230	231	77

STANDARD STEEL SPRING COMPANY

Sales.....	3,827	4,549	4,517	7,270
Gross profits.....	537	682	646	1,273
Net income.....	137	170	191	451
Profit rate.....	7.52	9.10	8.38	19.73
Equity ratio.....	8.08	8.08	2.95	3.58
Federal corporate income tax.....	27	32	17	64
Undistributed profits tax.....				X
Federal capital stock tax.....	3	7	6	5
Federal excises.....	1			
Federal-State payroll taxes.....			16	57
State income taxes.....	8	14	19	11
State sales taxes.....			X	1
Property taxes.....	16	14	15	31
State corporate taxes.....	1	10	10	9
Miscellaneous.....				
Total taxes.....	56	77	83	178

--- indicate no data available.

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() indicate deficit.

A. STEIN & COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	4,517	4,649	4,726	4,877
Gross profits.....	1,388	1,524	1,663	1,694
Net income.....	384	450	534	473
Profit rate.....	9.04	11.38	14.67	12.71
Equity ratio.....	14.65	15.88	9.44	13.47
Federal corporate income tax.....	45	58	72	65
Undistributed profits tax.....			4	6
Federal capital stock tax.....	5	7	7	7
Federal excises.....				
Federal-State payroll taxes.....			13	37
State income taxes.....	X	2	2	2
State sales taxes.....	1	1	3	1
Property taxes.....	18	17	18	24
State corporate taxes.....	1	1	1	1
Miscellaneous.....				
Total taxes.....	70	86	120	143

STERLING ALUMINUM PRODUCTS, INC.

Sales.....		1,607	2,019	2,237
Gross profits.....		448	598	591
Net income.....		408	502	473
Profit rate.....		97.99	96.80	77.33
Equity ratio.....		2.69	3.01	4.93
Federal corporate income tax.....		59	71	64
Undistributed profits tax.....		X	10	11
Federal capital stock tax.....		6	5	5
Federal excises.....		0	4	8
Federal-State payroll taxes.....		X	3	10
State income taxes.....				
State sales taxes.....		3	5	5
Property taxes.....		2	3	4
State corporate taxes.....		X	1	X
Miscellaneous.....				
Total taxes.....		70	102	107

STEWART-WARNER CORPORATION

Sales.....	17,075	20,479	27,075	30,961
Gross profits.....	4,884	6,449	7,871	8,495
Net income.....	616	2,002	2,695	2,344
Profit rate.....	5.34	15.24	19.24	15.72
Equity ratio.....	9.98	7.55	4.75	3.43
Federal corporate income tax.....	23	271	423	374
Undistributed profits tax.....			142	86
Federal capital stock tax.....	28	34	29	36
Federal excises.....	180	166	386	463
Federal-State payroll taxes.....			78	293
State income taxes.....			10	7
State sales taxes.....				X
Property taxes.....	147	177	221	201
State corporate taxes.....	6	4	5	6
Miscellaneous.....				
Total taxes.....	384	652	1,294	1,466

..... indicate no data available.

X indicates less than \$1,000.

STOKLEY BROTHERS & COMPANY, INC.^{1, 2}

[\$000's]

	1934	1935	1936	1937
Sales.....		14, 226	17, 846	16, 686
Gross profits.....		3, 023	3, 470	2, 892
Net income.....		1, 566	1, 987	49
Profit rate.....		26.65	27.03	0.49
Equity ratio.....		2.24	1.83	99
Federal corporate income tax.....		189	254	4
Undistributed profits tax.....			22	
Federal capital stock tax.....		16	8	10
Federal excises.....				
Federal-State payroll taxes.....			33	106
State income taxes.....			7	25
State sales taxes.....		3	2	1
Property taxes.....		48	68	82
State corporate taxes.....		5	3	6
Miscellaneous.....		1	10	1
Total taxes.....		262	407	235

¹ Fiscal year ended May 31.² Does not include a subsidiary which was acquired as of January 1936, Santa Cruz Fruit Packing Co.

THE STUDEBAKER CORPORATION

Sales.....		33, 838	68, 929	70, 633
Gross profits.....		4, 149	12, 100	11, 667
Net income.....		(1, 535)	3, 346	1, 476
Profit rate.....			13.04	5.51
Equity ratio.....		1.21	1.56	1.99
Federal corporate income tax.....			565	87
Undistributed profits tax.....			10	
Federal capital stock tax.....		16	47	43
Federal excises.....		904	1, 614	1, 547
Federal-State payroll taxes.....			127	402
State income taxes.....		10	8	25
State sales taxes.....		25	49	50
Property taxes.....		422	358	356
State corporate taxes.....		1	1	1
Miscellaneous.....		14	8	9
Total taxes.....		1, 392	2, 787	2, 520

SULLIVAN MACHINERY COMPANY

Sales.....	4, 047	4, 892	6, 496	8, 957
Gross profits.....	1, 023	1, 377	1, 956	2, 811
Net income.....	(356)	(80)	180	325
Profit rate.....	(5.04)	(1.19)	2.74	4.74
Equity ratio.....	27.10	14.77	6.87	4.27
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	6	5	10	10
Federal excises.....				
Federal-State payroll taxes.....			24	92
State income taxes.....				
State sales taxes.....				
Property taxes.....	61	72	63	64
State corporate taxes.....	5	5	11	13
Miscellaneous.....				
Total taxes.....	72	82	108	179

---- Indicate no data available.

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() indicate deficit.

SUTHERLAND PAPER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	5,903	6,560	7,495	8,245
Gross profits.....	1,480	1,681	1,997	2,346
Net income.....	575	724	978	1,089
Profit rate.....	14.96	17.35	22.31	23.24
Equity ratio.....	12.18	13.83	10.23	10.77
Federal corporate income tax.....	70	106	136	149
Undistributed profits tax.....			33	44
Federal capital stock tax.....	5	5	20	16
Federal excises.....	0	0	0	0
Federal-State payroll taxes.....			20	66
State income taxes.....	0	0	0	0
State sales taxes.....	0	0	0	0
Property taxes.....	37	39	41	44
State corporate taxes.....	9	9	10	10
Miscellaneous.....	0	0	0	0
Total taxes.....	121	159	260	329

SWEET'S STEEL COMPANY

Sales.....			1,432	1,599
Gross profits.....			340	291
Net income.....			105	(39)
Profit rate.....			10.97	(4.10)
Equity ratio.....			1.78	1.37
Federal corporate income tax.....			9	
Undistributed profits tax.....			7	
Federal capital stock tax.....			1	1
Federal excises.....			X	X
Federal-State payroll taxes.....			4	12
State income taxes.....			5	X
State sales taxes.....				
Property taxes.....			5	5
State corporate taxes.....			3	5
Miscellaneous.....				
Total taxes.....			34	23

SWIFT AND COMPANY

Sales.....		767,227	831,672	885,837
Gross profits.....		172,372	171,391	187,808
Net income.....		13,740	16,453	12,959
Profit rate.....		5.22	6.17	4.91
Equity ratio.....		3.06	5.21	3.61
Federal corporate income tax.....		2,193	2,141	1,751
Undistributed profits tax.....				7
Federal capital stock tax.....		209	210	188
Federal excises.....		1,334	1,480	807
Federal-State payroll taxes.....			721	2,528
State income taxes.....		75	187	234
State sales taxes.....		74	82	115
Property taxes.....		2,556	2,914	3,031
State corporate taxes.....		78	120	219
Miscellaneous.....		232	842	246
Total taxes.....		6,751	8,697	8,926

.... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

TAYLOR MILLING CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	3,268	4,172	5,757	7,429
Gross profits.....	605	562	952	746
Net income.....	238	152	457	192
Profit rate.....	11.71	7.71	21.87	9.05
Equity ratio.....	11.20	10.57	1.83	1.93
Federal corporate income tax.....	42	38	69	28
Undistributed profits tax.....			7	10
Federal capital stock tax.....	2	3	3	3
Federal excises.....				
Federal-state payroll taxes.....			4	15
State income taxes.....	4	12	9	20
State sales taxes.....				
Property taxes.....	18	20	23	33
State corporate taxes.....	X	X	X	X
Miscellaneous.....	X	1	1	2
Total taxes.....	66	74	116	111

TENNESSEE CORPORATION

	1934	1935	1936	1937
Sales.....	7,033	7,915	9,657	13,293
Gross profits.....	2,184	2,437	2,685	4,253
Net income.....	411	382	554	1,254
Profit rate.....	2.28	2.07	2.80	6.25
Equity ratio.....	4.85	4.67	3.29	3.52
Federal corporate income tax.....	10	30	15	80
Undistributed profit: tax.....				1
Federal capital stock tax.....	18	7	18	14
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			24	102
State income taxes.....	5	8	6	11
State sales taxes.....	10	10	2	2
Property taxes.....	109	115	129	140
State corporate taxes.....	26	30	45	54
Miscellaneous.....		X	X	X
Total taxes.....	178	200	239	404

THE TEXAS CORPORATION

	1934	1935	1936	1937
Sales.....	272,619	300,237	337,468	376,238
Gross profits.....	106,875	118,608	140,804	164,374
Net income.....	12,397	23,716	45,838	65,291
Profit rate.....	2.81	5.50	9.82	12.22
Equity ratio.....	2.48	2.62	2.61	3.86
Federal corporate income tax.....	965	1,161	3,100	6,275
Undistributed profits tax.....			380	825
Federal capital stock tax.....	248	295	239	388
Federal excises.....	662	632	965	850
Federal-State payroll taxes.....			417	1,479
State income taxes.....				
State sales taxes.....	4,230	4,710	5,494	6,203
Property taxes.....				
State corporate taxes.....	339	262	322	449
Miscellaneous.....	766	806	855	1,000
Total taxes.....	7,210	7,860	11,775	17,469

--- indicate no data available.

X indicates less than \$1,000.

TEXAS PACIFIC COAL AND OIL COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	3,735	3,010	3,321	3,968
Gross profits.....	1,190	1,421	1,814	2,612
Net income.....	(198)	38	652	965
Profit rate.....	(2.18)	0.42	6.85	9.65
Equity ratio.....	10.32	25.77	28.06	33.53
Federal corporate income tax.....	3	4	4	1
Undistributed profits tax.....				
Federal capital stock tax.....	10	9	11	10
Federal excises.....	6	5	4	4
Federal-State payroll taxes.....			8	29
State income taxes.....		8	4	1
State sales taxes.....	42	38	53	81
Property taxes.....	100	83	83	90
State corporate taxes.....	2	3	3	4
Miscellaneous.....			0	9
Total taxes.....	167	150	170	223

THOMPSON PRODUCTS, INCORPORATED

Sales.....	6,329	8,328	11,408	14,577
Gross profits.....	1,817	2,376	3,277	3,978
Net income.....	451	817	974	1,105
Profit rate.....	10.43	15.41	15.16	15.94
Equity ratio.....	6.72	2.90	3.51	3.52
Federal corporate income tax.....	48	95	131	143
Undistributed profits tax.....			32	25
Federal capital stock tax.....	10	11	16	20
Federal excises.....	30	33	51	64
Federal-State payroll taxes.....			41	161
State income taxes.....	X	X	1	1
State sales taxes.....	X	X	1	1
Property taxes.....	-58	65	84	95
State corporate taxes.....	5	6	8	7
Miscellaneous.....				
Total taxes.....	151	210	365	517

TIDE WATER ASSOCIATED OIL CO.

Sales.....			124,584	145,177
Gross profits.....			50,667	65,285
Net income.....			8,942	18,281
Profit rate.....			5.22	9.95
Equity ratio.....			4.16	2.45
Federal corporate income tax.....			1,211	1,323
Undistributed profits tax.....			1	
Federal capital stock tax.....			276	213
Federal excises.....			319	307
Federal-State payroll taxes.....			175	804
State income taxes.....			218	91
State sales taxes.....			10	21
Property taxes.....			2,390	2,362
State corporate taxes.....			97	85
Miscellaneous.....			133	354
Total taxes.....			4,830	5,560

..... indicate no data available.

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() indicate deficit.

TIMKEN DETROIT AXLE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....			21,279	23,539
Gross profits.....	5,447	5,757	7,032	6,699
Net income.....	528	1,402	2,621	2,281
Profit rate.....	3.79	9.56	18.33	15.61
Equity ratio.....	16.48	16.22	8.51	10.51
Federal corporate income tax.....	68	211	415	385
Undistributed profits tax.....			20	60
Federal capital stock tax.....	11	17	36	32
Federal excises.....				
Federal-State pay roll taxes.....			64	219
State income taxes.....	6	16	28	26
State sales taxes.....			1	1
Property taxes.....	174	184	191	244
State corporate taxes.....	21	22	22	30
Miscellaneous.....				
Total taxes.....	280	450	777	997

THE TIMKEN ROLLER BEARING CO.

Sales.....			21,279	23,539
Gross profits.....	5,447	5,757	7,032	6,699
Net income.....	528	1,402	2,621	2,281
Profit rate.....	3.79	9.56	18.33	15.61
Equity ratio.....	16.48	16.22	8.51	10.51
Federal corporate income tax.....	585	1,345	1,619	1,900
Undistributed profits tax.....			X	0
Federal capital stock tax.....	56	77	134	112
Federal excises.....	20	19	22	26
Federal-State pay roll taxes.....			132	505
State income taxes.....	X	1	1	10
State sales taxes.....	X	5	10	22
Property taxes.....	210	207	220	240
State corporate taxes.....	38	41	40	42
Miscellaneous.....	1	2	2	4
Total taxes.....	910	1,697	2,180	2,861

THE TRANE COMPANY

Sales.....			3,279	4,495
Gross profits.....			1,491	1,922
Net income.....			479	513
Profit rate.....			42.99	31.42
Equity ratio.....			3.15	5.71
Federal corporate income tax.....			68	68
Undistributed profits tax.....			39	12
Federal capital stock tax.....			3	4
Federal excises.....				
Federal-State pay roll taxes.....			10	31
State income taxes.....			30	23
State sales taxes.....				
Property taxes.....			9	14
State corporate taxes.....			1	1
Miscellaneous.....				
Total taxes.....			160	153

.... indicate no data available.

X indicates less than \$1,000.

TRUNZ PORK STORES, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales	3,510	4,112	4,276	4,966
Gross profits	927	765	948	1,113
Net income	20	(124)	37	104
Profit rate	1.61	(11.18)	2.88	7.80
Equity ratio	16.87	3.48	7.78	9.87
Federal corporate income tax	3	13	3	14
Undistributed profits tax				1
Federal capital stock tax	2	2	2	2
Federal excises				
Federal-State payroll taxes			7	23
State income taxes	6	2	6	5
State sales taxes	1	3	4	5
Property taxes	12	11	10	9
State corporate taxes				
Miscellaneous	2	2	2	3
Total taxes	26	33	34	62

TWIN COACH COMPANY

Sales		6,065	7,918	8,237
Gross profits		1,524	2,050	1,928
Net income		664	1,028	841
Profit rate		22.55	43.98	24.25
Equity ratio		1.72	3.24	1.70
Federal corporate income tax		98	158	144
Undistributed profits tax			64	42
Federal capital stock tax		9	16	11
Federal excises		135	179	203
Federal-State payroll taxes			13	50
State income taxes		X	2	2
State sales taxes			1	1
Property taxes		9	11	13
State corporate taxes		3	3	1
Miscellaneous		X	X	X
Total taxes		254	447	467

UNDERWOOD ELLIOTT FISHER CO.

Sales	20,716	23,975	27,312	30,767
Gross profits	10,507	11,942	13,285	15,382
Net income	2,990	3,551	4,284	5,781
Profit rate	17.66	19.28	21.78	27.16
Equity ratio	12.92	11.14	8.65	8.18
Federal corporate income tax	385	455	445	803
Undistributed profits tax			0	65
Federal capital stock tax	38	43	49	52
Federal excises	0	0	0	0
Federal-State payroll taxes			147	482
State income taxes	66	42	55	47
State sales taxes	4	6	44	15
Property taxes	151	160	161	163
State corporate taxes	8	10	14	17
Miscellaneous				
Total taxes	652	716	915	1,644

.... Indicate no data available.

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() indicate deficit.

UNION BAG & PAPER COMPANY

[\$000's]

	1934	1935	1936	1937
Sales	9,258	9,535	11,771	15,691
Gross profits	2,849	2,362	3,038	5,829
Net income	791	272	439	1,764
Profit rate	12.96	3.66	3.78	9.82
Equity ratio	11.16	9.86	3.28	1.16
Federal corporate income tax	98	36	29	216
Undistributed profits tax				57
Federal capital stock tax	10	13	24	25
Federal excises	X	X		
Federal-State payroll taxes	1	3	34	144
State income taxes	6	9	20	46
State sales taxes	4	2	3	2
Property taxes	56	65	73	86
State corporate taxes	3	3	6	6
Miscellaneous	2	3		
Total taxes	180	134	189	575

UNION SUGAR COMPANY

	1934	1935	1936	1937
Sales	273	1,518	1,628	1,628
Gross profits	147	505	574	463
Net income	(58)	142	309	140
Profit rate	(2.09)	4.89	10.26	4.71
Equity ratio	2.98	4.18	2.98	2.22
Federal corporate income tax		12	37	10
Undistributed profits tax				
Federal capital stock tax	X	X	5	5
Federal excises				9
Federal-State payroll taxes			2	8
State income taxes	X	X	3	13
State sales taxes	3	3	4	4
Property taxes	28	34	36	45
State corporate taxes				
Miscellaneous	X	X	4	
Total taxes	31	49	91	91

UNITED AIRCRAFT CORPORATION

	1934	1935	1936	1937
Sales		11,787	22,121	28,755
Gross profits		3,796	6,699	10,141
Net income		509	2,182	4,630
Profit rate		3.40	9.99	19.47
Equity ratio		4.70	7.98	6.77
Federal corporate income tax		58	216	605
Undistributed profits tax			11	143
Federal capital stock tax		79	57	59
Federal excises		6	10	3
Federal-State payroll taxes			80	302
State income taxes		29	33	89
State sales taxes				
Property taxes		82	90	95
State corporate taxes		2	2	5
Miscellaneous				
Total taxes		256	499	1,305

---- indicate no data available.

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() indicate deficit.

UNITED CARBON COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	5,632	8,230	9,019	9,272
Gross profits.....	3,569	5,035	5,878	6,314
Net income.....	1,797	2,415	3,051	3,002
Profit rate.....	12.36	16.48	20.45	19.69
Equity ratio.....	9.45	9.69	15.94	18.76
Federal corporate income tax.....	202	264	357	367
Undistributed profits tax.....			53	22
Federal capital stock tax.....	21	26	31	32
Federal excises.....	10	11	1	0
Federal-State payroll taxes.....			9	35
State income taxes.....	0	15	10	26
State sales taxes.....	20	11	31	150
Property taxes.....	67	100	98	95
State corporate taxes.....	4	21	21	17
Miscellaneous.....	31	42	38	32
Total taxes.....	355	490	649	776

UNITED-CARR FASTENER CORPORATION

Sales.....	4,187	5,523	6,491	7,072
Gross profits.....	1,160	1,506	1,922	2,140
Net income.....	671	947	1,306	1,331
Profit rate.....	18.43	24.13	31.87	29.00
Equity ratio.....	1.42	5.15	5.80	8.55
Federal corporate income tax.....	60	100	168	137
Undistributed profits tax.....			39	21
Federal capital stock tax.....	4	6	10	11
Federal excises.....	1	1	2	1
Federal-State payroll taxes.....			19	48
State income taxes.....	X	X	X	X
State sales taxes.....	X	X	X	X
Property taxes.....	20	25	23	22
State corporate taxes.....	12	17	39	35
Miscellaneous.....	2	2	1	
Total taxes.....	99	151	301	275

UNITED CHEMICALS, INC.

Sales.....	1,595	1,648	1,908	777
Gross profits.....	429	493	536	180
Net income.....	(53)	(58)	10	104
Profit rate.....	(1.12)	(1.27)	0.25	3.23
Equity ratio.....	42.57	45.54	22.57	87.88
Federal corporate income tax.....	0	0		2
Undistributed profits tax.....			3	
Federal capital stock tax.....	X	X	X	X
Federal excises.....				
Federal-State payroll taxes.....			X	X
State income taxes.....				
State sales taxes.....		X	X	
Property taxes.....				
State corporate taxes.....	1	1	1	1
Miscellaneous.....	X	X	1	X
Total taxes.....	1	1	5	3

---- indicate no data available.
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() indicate deficit.

UNITED DRUG, INCORPORATED

[\$000's]

	1934	1935	1936	1937
Sales.....	78,439	82,740	88,465	93,358
Gross profits.....	27,641	28,280	29,908	31,645
Net income.....	4,078	3,693	4,407	3,624
Profit rate.....	8.68	7.26	8.56	7.51
Equity ratio.....	.23	.35	.36	.33
Federal corporate income tax.....	359	354	430	428
Undistributed profits tax.....			101	129
Federal capital stock tax.....	32	33	39	38
Federal excises.....	265	235	247	373
Federal-State payroll taxes.....			163	515
State income taxes.....	10	29	58	69
State sales taxes.....	8	672	883	824
Property taxes.....	167	202	229	235
State corporate taxes.....				
Miscellaneous.....	456	406	233	208
Total taxes.....	1,297	1,931	2,383	2,819

UNITED DYEWOOD CORP.

Sales.....	5,890	6,007	6,001	5,201
Gross profits.....	1,883	2,128	2,319	2,051
Net income.....	344	557	704	642
Profit rate.....	4.87	7.69	9.85	9.17
Equity ratio.....	4.41	4.56	5.93	6.16
Federal corporate income tax.....		13	9	14
Undistributed profits tax.....				
Federal capital stock tax.....	2	16	8	8
Federal excises.....	X			
Federal-State payroll taxes.....			6	16
State income taxes.....			1	1
State sales taxes.....	X	X	X	X
Property taxes.....	18	17	18	14
State corporate taxes.....	4	2	11	5
Miscellaneous.....				
Total taxes.....	24	48	53	58

UNITED ENGINEERING & FOUNDRY COMPANY

Sales.....				
Gross profits.....	1,832	3,277	5,270	7,107
Net income.....	852	2,097	3,471	5,375
Profit rate.....	9.28	21.83	35.84	51.44
Equity ratio.....	6.81	3.38	2.57	1.97
Federal corporate income tax.....	134	383	531	1,009
Undistributed profits tax.....			12	109
Federal capital stock tax.....	11	16	45	36
Federal excises.....	X	X	0	0
Federal-State payroll taxes.....			49	189
State income taxes.....	0	65	131	127
State sales taxes.....	0	0	0	0
Property taxes.....	57	54	61	68
State corporate taxes.....	11	46	79	97
Miscellaneous.....				
Total taxes.....	213	564	908	1,635

---- indicate no data available.

X indicates less than \$1,000.

UNITED PAPERBOARD COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....			3, 115	2, 338
Gross profits.....			597	412
Net income.....			450	402
Profit rate.....			4.35	1.03
Equity ratio.....			21.39	42.08
Federal corporate income tax.....			19	3
Undistributed profits tax.....				
Federal capital stock tax.....			3	3
Federal excises.....				
Federal-State payroll taxes.....			23	26
State income taxes.....			2	1
State sales taxes.....				
Property taxes.....			24	23
State corporate taxes.....			5	5
Miscellaneous.....				
Total taxes.....			76	61

UNITED SHIPYARDS, INC.

Sales.....			15, 123	14, 327
Gross profits.....			1, 954	1, 242
Net income.....			(155)	(533)
Profit rate.....			(1.14)	(4.16)
Equity ratio.....			1.07	.94
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....			15	8
Federal excises.....				
Federal-State payroll taxes.....			68	189
State income taxes.....			4	4
State sales taxes.....			16	12
Property taxes.....			172	174
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....			275	387

UNITED SHIRT DISTRIBUTORS, INC.)

Sales.....	952	1, 209	1, 494	1, 503
Gross profits.....	401	523	663	627
Net income.....	90	111	145	90
Profit rate.....	33.33	37.97		19.96
Equity ratio.....	2.86	1.58	3.39	7.37
Federal corporate income tax.....	12	16	21	12
Undistributed profits tax.....			X	2
Federal capital stock tax.....	1	2	2	2
Federal excises.....			X	
Federal-State payroll taxes.....			2	7
State income taxes.....				
State sales taxes.....				
Property taxes.....	3	3	4	6
State corporate taxes.....	3	4	5	6
Miscellaneous.....				
Total taxes.....	19	25	34	35

1 Figures for 1936 are for 13 months ended Jan. 31, 1938.

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

UNITED SPECIALTIES COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....				2,028
Gross profits.....				681
Net income.....				240
Profit rate.....				22.71
Equity ratio.....				3.36
Federal corporate income tax.....				53
Undistributed profits tax.....				3
Federal capital stock tax.....				19
Federal excises.....				X
Federal-State payroll taxes.....				19
State income taxes.....				7
State sales taxes.....				7
Property taxes.....				3
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....				111

UNITED STATES DISTRIBUTING CORPORATION

	24,528	21,106	20,561	20,426
Sales.....	24,528	21,106	20,561	20,426
Gross profits.....	2,744	2,838	2,880	2,907
Net income.....	977	823	751	945
Profit rate.....	5.75	4.80	4.94	6.28
Equity ratio.....	1.208	1.29	1.57	1.60
Federal corporate income tax.....	13	26	32	23
Undistributed profits tax.....			19	8
Federal capital stock tax.....	6	7	7	7
Federal excises.....	1	3	X	4
Federal-State payroll taxes.....			28	87
State income taxes.....	10	10	7	6
State sales taxes.....	2	11	15	14
Property taxes.....	84	82	77	67
State corporate taxes.....	10	10	10	10
Miscellaneous.....		86	88	87
Total taxes.....	126	235	283	313

U. S. GRAPHITE COMPANY

	1,129	1,290	1,282
Sales.....	1,129	1,290	1,282
Gross profits.....	517	634	573
Net income.....	257	304	244
Profit rate.....	23.47	27.75	22.94
Equity ratio.....	18.91	13.15	15.44
Federal corporate income tax.....	38	43	39
Undistributed profits tax.....			
Federal capital stock tax.....	3	3	4
Federal excises.....			
Federal-State payroll taxes.....	X	4	14
State income taxes.....		X	1
State sales taxes.....	1		
Property taxes.....	10	8	8
State corporate taxes.....	2	2	3
Miscellaneous.....			
Total taxes.....	54	60	69

... indicate no data available.

X indicates less than \$1,000.

U. S. HOFFMAN MACH. CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	3,251	3,854	5,309	6,583
Gross profits.....	1,252	1,510	2,236	2,504
Net income.....	132	256	687	691
Profit rate.....	3.72	7.11	12.67	11.91
Equity ratio.....	4.51	2.57	5.87	2.31
Federal corporate income tax.....			1	
Undistributed profits tax.....				
Federal capital stock tax.....	4	4	7	8
Federal excises.....				
Federal-State payroll taxes.....			14	51
State income taxes.....	3	4	1	4
State sales taxes.....	8	7	8	7
Property taxes.....	16	14	16	19
State corporate taxes.....	3	3	4	5
Miscellaneous.....	X	X	1	1
Total taxes.....	34	32	52	95

UNITED STATES HOFFMAN MACHINERY CORP.

Sales.....	8,253	8,251	13,878	13,434
Gross profits.....	3,126	3,414	5,728	5,343
Net income.....	955	1,345	2,981	2,614
Profit rate.....	3.26	4.63	11.08	9.56
Equity ratio.....	25.50	22.55	7.01	8.76
Federal corporate income tax.....	137	176	417	338
Undistributed profits tax.....				
Federal capital stock tax.....	30	24	53	40
Federal excises.....				
Federal-State payroll taxes.....			34	108
State income taxes.....	X	1	2	4
State sales taxes.....				
Property taxes.....	113	113	101	100
State corporate taxes.....	18	26	97	11
Miscellaneous.....				
Total taxes.....	298	340	704	600

U. S. PLAYING CARD CO.

Sales.....	7,522	6,943	7,402	7,530
Gross profits.....	2,397	2,275	2,291	2,590
Net income.....	879	766	723	944
Profit rate.....	8.63	7.57	7.28	9.49
Equity ratio.....	17.80	23.94	22.65	21.37
Federal corporate income tax.....	78	62	66	113
Undistributed profits tax.....				
Federal capital stock tax.....	6	12	9	11
Federal excises.....	3,212	2,957	3,136	3,055
Federal-State payroll taxes.....			17	45
State income taxes.....	2	4	3	5
State sales taxes.....				
Property taxes.....	53	42	50	40
State corporate taxes.....	8	9	8	8
Miscellaneous.....				
Total taxes.....	3,359	3,086	3,289	3,277

--- Indicate no data available.

X Indicates less than \$1,000.

THE UNITED STATES PRINTING & LITHOGRAPH CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	6,499	6,884	7,510	7,624
Gross profits.....	2,064	2,149	2,175	2,038
Net income.....	415	329	215	173
Profit rate.....	5.48	4.31	2.98	3.01
Equity ratio.....	1.54	1.54	1.55	1.31
Federal corporate income tax.....	21	3		
Undistributed profits tax.....				
Federal capital stock tax.....	4	4	5	4
Federal excises.....	X			X
Federal-State payroll taxes.....			27	82
State income taxes.....	3	2	2	X
State sales taxes.....				2
Property taxes.....	53	53	58	54
State corporate taxes.....	2	3	3	4
Miscellaneous.....				
Total taxes.....	83	65	95	146

UNITED STATES RUBBER COMPANY

	1934	1935	1936	1937
Sales.....	105,477	127,794	160,361	186,253
Gross profits.....	34,097	44,739	51,691	55,820
Net income.....	3,546	12,957	15,567	12,800
Profit rate.....	2.41	9.30	10.88	8.62
Equity ratio.....	.93	1.04	1.16	1.25
Federal corporate income tax.....	215	1,484	2,372	1,477
Undistributed profits tax.....			X	
Federal capital stock tax.....	50	159	267	282
Federal excises.....	5,332	6,294	6,802	6,674
Federal-State payroll taxes.....			412	1,483
State income taxes.....	33	84	120	93
State sales taxes.....	13	21	14	16
Property taxes.....	1,229	1,291	1,266	1,371
State corporate taxes.....	50	56	80	62
Miscellaneous.....	8	14	12	11
Total taxes.....	6,930	9,403	11,345	11,469

UNITED STATES SMELTING, REFINING AND MINING CO.

	1934	1935	1936	1937
Sales.....	27,443	32,006	30,643	36,262
Gross profits.....	14,427	16,829	14,051	15,886
Net income.....	7,507	8,299	6,647	7,951
Profit rate.....	12.50	13.79	11.03	13.25
Equity ratio.....	10.08	8.04	10.82	10.55
Federal corporate income tax.....	794	649	863	949
Undistributed profits tax.....			X	6
Federal capital stock tax.....	105	151	43	100
Federal excises.....	2	4		3
Federal-State payroll taxes.....			63	201
State income taxes.....	53	135	197	41
State sales taxes.....	X	4	5	200
Property taxes.....	330	359	321	402
State corporate taxes.....	6	6	7	8
Miscellaneous.....	X	1	2	9
Total taxes.....	1,290	1,309	1,501	1,919

--- indicate no data available.

X indicates less than \$1,000.

UNITED STATES STEEL CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	591,609	754,514	1,083,337	1,395,550
Gross profits.....	157,997	197,189	309,323	424,937
Net income.....	(11,078)	10,051	66,731	129,653
Profit rate.....	(0.57)	0.60	3.97	7.55
Equity ratio.....	11.03	8.83	7.30	6.71
Federal corporate income tax.....	2,600	3,925	10,984	24,500
Undistributed profits tax.....	X	X	215	5,090
Federal capital stock tax.....	1,633	1,736	1,809	1,929
Federal excises.....	289	480	408	321
Federal-State payroll taxes.....	X	X	4,082	13,416
State income taxes.....				2,088
State sales taxes.....				
Property taxes.....				
State corporate taxes.....	30,694	32,475	35,783	40,794
Miscellaneous.....				
Total taxes.....	35,216	38,616	53,281	88,048

UNITED STOCKYARDS CORPORATION

Sales.....				3,418
Gross profits.....				1,650
Net income.....				1,389
Profit rate.....				7.19
Equity ratio.....				.72
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....				
Federal excises.....				
Federal-State pay roll taxes.....				X
State income taxes.....				
State sales taxes.....				
Property taxes.....				
State corporate taxes.....				1
Miscellaneous.....				3
Total taxes.....				4

UNIVERSAL COOLER CORPORATION

Sales.....		3,962	5,249	3,979
Gross profits.....		512	886	623
Net income.....		90	409	90
Profit rate.....		10.19	34.31	9.34
Equity ratio.....		2.06	1.89	4.47
Federal corporate income tax.....		1	67	17
Undistributed profits tax.....				4
Federal capital stock tax.....		3	4	3
Federal excises.....		54	171	94
Federal-State pay roll taxes.....			6	31
State income taxes.....				
State sales taxes.....		6	2	2
Property taxes.....		9	16	19
State corporate taxes.....		2	2	2
Miscellaneous.....				
Total taxes.....		75	268	172

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

UNIVERSAL LEAF TOBACCO COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	17,227	20,161	26,560	23,704
Gross profits.....	2,631	2,779	2,920	2,501
Net income.....	1,844	1,859	1,815	1,814
Profit rate.....	14.87	14.42	13.99	13.88
Equity ratio.....	12.63	7.05	13.84	13.39
Federal corporate income tax.....	245	195	158	264
Undistributed profits tax.....		0	2	0
Federal capital stock tax.....	25	24	24	21
Federal excises.....				
Federal-State payroll taxes.....		7	23	48
State income taxes.....	49	57	32	57
State sales taxes.....			X	
Property taxes.....	46	54	45	59
State corporate taxes.....	12	13	12	14
Miscellaneous.....				
Total taxes.....	377	350	296	463

UNIVERSAL PRODUCTS CO. INC.

Sales.....			3,334	3,952
Gross profits.....	538	624	840	948
Net income.....	201	303	526	561
Profit rate.....	14.62	19.22	29.77	28.71
Equity ratio.....	5.92	3.39	4.18	10.10
Federal corporate income tax.....	13	11	73	78
Undistributed profits tax.....			20	21
Federal capital stock tax.....	3	3	5	5
Federal excises.....				
Federal-State payroll taxes.....			7	26
State income taxes.....				
State sales taxes.....				
Property taxes.....	16	16	17	20
State corporate taxes.....	3	4	4	5
Miscellaneous.....				
Total taxes.....	35	34	126	155

THE UPSON WALTON COMPANY

Sales.....		1,311	1,759	2,067
Gross profits.....		390	523	638
Net income.....		21	163	213
Profit rate.....		11.36	16.62	20.46
Equity ratio.....		11.61	8.02	8.62
Federal corporate income tax.....		13	25	34
Undistributed profits tax.....			11	9
Federal capital stock tax.....		1	2	2
Federal excises.....		X	X	
Federal-State payroll taxes.....			3	11
State income taxes.....		X	1	1
State sales taxes.....		X	1	1
Property taxes.....		9	10	10
State corporate taxes.....		1	1	1
Miscellaneous.....				
Total taxes.....		24	54	69

... indicate no data available.

X indicates less than \$1,000.

UTAH-IDAHO SUGAR CO.

[\$000's]

	1934	1935	1936	1937
Sales		11,928	9,880	7,915
Gross profits		4,757	4,210	4,538
Net income		1,711	1,672	878
Profit rate		8.58	7.88	4.16
Equity ratio		4.04	4.58	2.55
Federal corporate income tax		206	173	104
Undistributed profits tax		0	7	0
Federal capital stock tax		20	18	17
Federal excises		97	0	1,173
Federal-State payroll taxes		0	14	49
State income taxes		94	43	31
State sales taxes		2	X	X
Property taxes		217	206	228
State corporate taxes	X	X	X	X
Miscellaneous		2	1	1
Total taxes		638	462	1,603

UTAH RADIO PRODUCTS CO.

Sales	2,385	2,512	2,487	2,871
Gross profits	446	427	504	573
Net income	(60)	(121)	17	(3)
Profit rate	(4.72)	(10.95)	1.61	(0.22)
Equity ratio	10.05	4.49	3.33	4.71
Federal corporate income tax				
Undistributed profits tax				
Federal capital stock tax				
Federal excises				13
Federal-State payroll taxes				7
State income taxes				
State sales taxes				
Property taxes				
State corporate taxes				
Miscellaneous				
Total taxes				20

THE K. TAYLOR DISTILLING CO., INC.

Sales		1,057	1,960	932
Gross profits		473	881	443
Net income		160	407	89
Profit rate		23.82	30.29	6.69
Equity ratio		1.83	3.00	1.07
Federal corporate income tax		27	119	11
Undistributed profits tax			0	0
Federal capital stock tax		1	4	5
Federal excises	X	X	X	X
Federal-State payroll taxes			1	2
State income taxes			12	3
State sales taxes				
Property taxes		1	2	3
State corporate taxes		1	1	1
Miscellaneous				
Total taxes		30	139	25

.... indicate no data available.
X indicates less than \$1,000.
() indicate deficit.

VANADIUM-ALLOYS STEEL CO.

[\$000's]

	1934	1935	1936	1937
Sales.....	2,767	4,029	5,822	3,541
Gross profits.....	1,232	1,709	2,467	1,251
Net income.....	425	694	1,171	253
Profit rate.....	7.44	11.67	19.59	4.37
Equity ratio.....	20.73	13.12	6.70	19.58
Federal corporate income tax.....	65	100	194	35
Undistributed profits tax.....			5	
Federal capital stock tax.....	3	16	16	13
Federal excises.....	X	X	X	
Federal-State payroll taxes.....			35	39
State income taxes.....		20	42	12
State sales taxes.....	2	3	4	4
Property taxes.....	30	28	30	31
State corporate taxes.....	6	22	20	18
Miscellaneous.....		6		
Total taxes.....	106	195	346	152

VAN RAALTE COMPANY INC.

Sales.....	5,721	7,547	9,354	9,826
Gross profits.....	1,428	2,079	2,630	2,716
Net income.....	333	766	973	910
Profit rate.....	9.15	18.63	22.25	20.06
Equity ratio.....	17.17	10.74	6.42	8.92
Federal corporate income tax.....	26	101	124	121
Undistributed profits tax.....			13	11
Federal capital stock tax.....	2	6	9	9
Federal excises.....				
Federal-State payroll taxes.....			37	107
State income taxes.....	2	2	7	19
State sales taxes.....	1	2		2
Property taxes.....	29	28	29	28
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	60	139	219	297

VICTOR BREWING COMPANY

Sales.....	2,505	2,004	3,093	2,979
Gross profits.....	1,991	1,372	2,129	1,901
Net income.....	320	22	220	(45)
Profit rate.....	22.81	1.72	16.86	(3.68)
Equity ratio.....	7.51	5.59	4.26	2.84
Federal corporate income tax.....	44	2	43	
Undistributed profits tax.....			0	0
Federal capital stock tax.....	3	3	4	2
Federal excises.....	724	610	958	947
Federal-State payroll taxes.....			5	12
State income taxes.....	0	1	18	0
State sales taxes.....	203	167	226	235
Property taxes.....	6	7	8	9
State corporate taxes.....	5	5	5	4
Miscellaneous.....				
Total taxes.....	985	795	1,267	1,209

... indicate no data available.

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() indicate deficit.

VICTOR CHEMICAL WORKS

[\$000's]

	1934	1935	1936	1937
Sales.....				5,731
Gross profits.....				2,740
Net income.....				837
Profit rate.....				12.70
Equity ratio.....				17.08
Federal corporate income tax.....				120
Undistributed profits tax.....				X
Federal capital stock tax.....				14
Federal excises.....				
Federal-State payroll taxes.....				53
State income taxes.....				5
State sales taxes.....				X
Property taxes.....				23
State corporate taxes.....				6
Miscellaneous.....				
Total taxes.....				221

VIKING PUMP CO.

Sales.....	803	941	1,181	1,338
Gross profits.....	392	454	567	622
Net income.....	224	265	355	397
Profit rate.....	21.57	28.19	41.60	44.68
Equity ratio.....	19.16	14.21	8.11	7.93
Federal corporate income tax.....	29	35	51	60
Undistributed profits tax.....			15	13
Federal capital stock tax.....	2	2	4	3
Federal excises.....				
Federal-State payroll taxes.....			4	14
State income taxes.....	X	X	X	X
State sales taxes.....	X	X	X	X
Property taxes.....	2	2	2	3
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	33	39	76	93

VIRGINIA-CAROLINA CHEMICAL CORP.

Sales.....	11,621	12,583	16,794	15,762
Gross profits.....	2,966	2,055	4,086	3,085
Net income.....	1,303	106	1,546	575
Profit rate.....	4.40	43	6.21	2.31
Equity ratio.....	82.05	6.47	7.80	9.91
Federal corporate income tax.....	0	23	2	115
Undistributed profits tax.....			0	79
Federal capital stock tax.....	14	14	17	20
Federal excises.....	2	X	X	X
Federal-State payroll taxes.....			22	54
State income taxes.....	0	0	6	15
State sales taxes.....	2	2	2	2
Property taxes.....	172	174	154	143
State corporate taxes.....	35	36	34	32
Miscellaneous.....				
Total taxes.....	225	249	237	460

--- indicate no data available.

X indicates less than \$1,000.

WAGNER ELECTRIC CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales.....	6,288		14,746	17,532
Gross profits.....	1,949	3,300	4,836	5,645
Net income.....	362	988	1,797	2,051
Profit rate.....	4.38	12.10	21.35	23.29
Equity ratio.....	21.89	4.33	3.83	5.09
Federal corporate income tax.....	43	130	291	348
Undistributed profits tax.....			73	95
Federal capital stock tax.....	8	13	16	17
Federal excises.....				
Federal-State payroll taxes.....			45	153
State income taxes.....	4	10	21	33
State sales taxes.....	1	1	X	1
Property taxes.....	31	29	30	33
State corporate taxes.....	23	25	24	33
Miscellaneous.....	3	1		1
Total taxes.....	113	209	500	714

THE WAHL COMPANY

Sales.....	1,853	2,236	2,562	2,493
Gross profits.....	961	1,175	1,253	1,193
Net income.....	44	158	155	85
Profit rate.....	1.84	6.00	5.76	3.11
Equity ratio.....	23.89	12.40	11.77	1.65
Federal corporate income tax.....		12	12	2
Undistributed profits tax.....			15	
Federal capital stock tax.....	2	2	3	3
Federal excises.....	2	X	1	
Federal-State payroll taxes.....			10	30
State income taxes.....	X	X	X	X
State sales taxes.....	1	1	1	
Property taxes.....	12	12	15	18
State corporate taxes.....	2	1	1	1
Miscellaneous.....	1	2	3	X
Total taxes.....	20	30	61	54

WAHLGREEN COMPANY

Sales.....		58,107	61,784	67,890
Gross profits.....		20,241	21,636	24,630
Net income.....		2,580	3,159	3,232
Profit rate.....		15.60	17.87	13.35
Equity ratio.....		6.23	5.12	6.51
Federal corporate income tax.....		240	416	582
Undistributed profits tax.....				1
Federal capital stock tax.....		28	39	42
Federal excises.....		40	39	46
Federal-State payroll taxes.....			81	304
State income taxes.....		18	31	43
State sales taxes.....		821	1,097	1,164
Property taxes.....		207	254	308
State corporate taxes.....		227	228	240
Miscellaneous.....				
Total taxes.....		1,581	2,185	2,730

..... indicate no data available.

X indicates less than \$1,000.

WARNER AIRCRAFT CORPORATION

[\$'000's]

	1934	1935	1936	1937
Sales	188	203	270	365
Gross profits	38	44	74	67
Net income	(22)	(16)	1	(11)
Profit rate	(3.74)	(2.79)	0.13	(2.02)
Equity ratio	8.24	8.70	7.75	7.66
Federal corporate income tax			X	
Undistributed profits tax				
Federal capital stock tax	X	X	X	X
Federal excises				
Federal-State payroll taxes			1	3
State income taxes				
State sales taxes				
Property taxes	13	8	7	8
State corporate taxes	2	1	1	1
Miscellaneous				
Total taxes	15	9	9	12

S. D. WARREN COMPANY

Sales	6,565	7,620	8,288	9,616
Gross profits	1,885	1,987	2,228	2,864
Net income	266	394	566	871
Profit rate	2.35	4.47	6.42	8.74
Equity ratio	94	1.11	1.11	.97
Federal corporate income tax			23	24
Undistributed profits tax				
Federal capital stock tax	12	8	6	5
Federal excises	X	X	1	2
Federal-State payroll taxes			26	87
State income taxes	2	2	2	3
State sales taxes				
Property taxes	206	204	225	218
State corporate taxes	1	2	1	12
Miscellaneous				
Total taxes	221	216	284	351

WARREN FOUNDRY & PIPE CORPORATION

Sales	2,023	1,679	2,503	3,234
Gross profits	789	634	920	1,211
Net income	383	210	433	608
Profit rate	9.78	5.45	11.11	15.44
Equity ratio	19.71	26.09	20.57	15.08
Federal corporate income tax	32	20	37	40
Undistributed profits tax			X	
Federal capital stock tax	7	10	7	7
Federal excises	1	X	X	X
Federal-State payroll taxes			7	32
State income taxes	2	4	12	12
State sales taxes				
Property taxes	38	86	75	84
State corporate taxes	1	1	1	2
Miscellaneous				
Total taxes	131	121	139	177

... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

WAUKESHA MOTOR CO.

[\$000's]

	1934	1935	1936	1937
Sales		6,130	8,213	10,503
Gross profits		1,589	1,905	2,571
Net income		625	906	1,417
Profit rate		13.63	17.96	25.08
Equity ratio		12.82	7.68	5.88
Federal corporate income tax		88	118	207
Undistributed profits tax				91
Federal capital stock tax		20	15	16
Federal excises				
Federal-State payroll taxes			32	66
State income taxes		45	58	90
State sales taxes				
Property taxes		36	44	50
State corporate taxes				
Miscellaneous		27		
Total taxes		216	267	520

WAVERLY OIL WORKS COMPANY ¹

	1,125	1,124	1,118	1,598
Sales	1,125	1,124	1,118	1,598
Gross profits	180	250	246	269
Net income	(44)	(2)	7	(46)
Profit rate	(7.84)	(0.38)	0.93	(5.47)
Equity ratio	1.80	1.83	1.43	1.31
Federal corporate income tax	0	0	0	0
Undistributed profits tax			0	
Federal capital stock tax	1	1	1	X
Federal excises				
Federal-State payroll taxes			5	7
State income taxes	0	0	0	0
State sales taxes	0	0	0	0
Property taxes	8	8	6	6
State corporate taxes	X	2	2	3
Miscellaneous			X	
Total taxes	9	11	14	16

¹ Fiscal year April 30.

WAYNE KNITTING MILLS

	2,551	2,987	3,331
Sales	2,551	2,987	3,331
Gross profits	512	656	779
Net income	86	196	270
Profit rate	4.09	8.98	12.23
Equity ratio	20.98	16.18	11.95
Federal corporate income tax	4	23	37
Undistributed profits tax		3	2
Federal capital stock tax	1	4	4
Federal excises			
Federal-State payroll taxes		12	43
State income taxes	X		
State sales taxes	X	1	1
Property taxes	30	28	25
State corporate taxes			
Miscellaneous			
Total taxes	35	71	112

.... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

18431

WAYNE SCREW PRODUCTS COMPANY

[\$000's]

	1934	1935	1936	1937
Sales			493	758
Gross profits			148	161
Net income			72	87
Profit rate				20.44
Equity ratio			9.06	6.67
Federal corporate income tax			10	15
Undistributed profits tax				
Federal capital stock tax			1	1
Federal excises			X	X
Federal-State payroll taxes			1	9
State income taxes				
State sales taxes				
Property taxes			2	3
State corporate taxes			1	1
Miscellaneous				
Total taxes			15	29

WEINBERGER DRUG STORES, INCORPORATED

Sales		4,226	5,275	5,259
Gross profits		1,318	1,680	1,638
Net income		191	299	149
Profit rate		19.27	27.61	13.88
Equity ratio		2.95	2.16	2.16
Federal corporate income tax		22	43	22
Undistributed profits tax			9	1
Federal capital stock tax		3	3	3
Federal excises				
Federal-State payroll taxes			15	27
State income taxes		1	1	2
State sales taxes	X		X	1
Property taxes		9	10	15
State corporate taxes		1	1	2
Miscellaneous		6	3	6
Total taxes		42	85	79

WENTWORTH MANUFACTURING COMPANY

Sales		3,242	4,711	4,707
Gross profits		602	830	637
Net income		284	411	189
Profit rate		33.35	40.04	12.27
Equity ratio		6.57	2.04	13.04
Federal corporate income tax		45	62	28
Undistributed profits tax				
Federal capital stock tax		3	5	5
Federal excises				
Federal-State payroll taxes			12	37
State income taxes				
State sales taxes				
Property taxes		2	3	3
State corporate taxes		3	8	6
Miscellaneous			26	
Total taxes		53	116	78

... indicate no data available.
X indicates less than \$1,000.

WESSON OIL & SNOWDRIFT COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....		62,006	65,139	70,110
Gross profits.....		12,415	11,257	10,997
Net income.....		6,354	4,528	4,225
Profit rate.....		17.97	12.34	11.41
Equity ratio.....		7.54	8.65	10.00
Federal corporate income tax.....		1,038	709	751
Undistributed profits tax.....				
Federal capital stock tax.....		42	48	49
Federal excises.....		1,096	1,481	1,262
Federal-State payroll taxes.....			28	116
State income taxes.....		182	160	219
State sales taxes.....		5	7	15
Property taxes.....		277	279	303
State corporate taxes.....		85	89	79
Miscellaneous.....				
Total taxes.....		2,725	2,801	2,794

WESTERN AUTO SUPPLY COMPANY

Sales.....			25,717	36,912
Gross profits.....			7,709	10,549
Net income.....			2,594	3,372
Profit rate.....			26.33	22.40
Equity ratio.....			5.16	2.41
Federal corporate income tax.....			391	557
Undistributed profits tax.....			114	288
Federal capital stock tax.....			23	32
Federal excises.....				
Federal-State payroll taxes.....			36	148
State income taxes.....			20	23
State sales taxes.....			9	12
Property taxes.....			100	92
State corporate taxes.....				
Miscellaneous.....			2	1
Total taxes.....			695	1,153

WESTON ELECTRICAL INSTRUMENT CORPORATION

Sales.....			3,236	3,929
Gross profits.....	1,130	1,391	1,622	2,023
Net income.....	122	264	298	533
Profit rate.....	3.81	7.89	9.34	15.88
Equity ratio.....	31.55	19.60	14.18	10.90
Federal corporate income tax.....	16	38	38	82
Undistributed profits tax.....			2	34
Federal capital stock tax.....	3	4	5	7
Federal excises.....	1	1	1	1
Federal-State payroll taxes.....			18	60
State income taxes.....			X	X
State sales taxes.....	X	1		X
Property taxes.....	38	55	52	47
State corporate taxes.....	X	X	X	X
Miscellaneous.....				
Total taxes.....	58	99	116	231

... indicate no data available.

X indicates less than \$1,000.

CONCENTRATION OF ECONOMIC POWER

18433

WESTVACO CHLORINE PRODUCTS CORPORATION

[\$'000's]

	1934	1935	1936	1937
Sales	5,506	6,121	6,914	8,592
Gross profits	1,997	2,223	2,636	3,274
Net income	830	833	910	1,025
Profit rate	11.31	9.75	8.76	8.52
Equity ratio	7.22	3.82	32.18	18.79
Federal corporate income tax	125	95	124	143
Undistributed profits tax			22	21
Federal capital stock tax	16	13	6	14
Federal excises		X	X	
Federal-State payroll taxes			16	58
State income taxes	X	X	X	
State sales taxes	20	21	26	23
Property taxes	45	48	47	54
State corporate taxes	2	2	2	
Miscellaneous	X	X	9	2
Total taxes	208	179	252	315

WEST VIRGINIA PULP AND PAPER CO

Sales				31,413
Gross profits				12,487
Net income				3,678
Profit rate				6.18
Equity ratio				4.94
Federal corporate income tax				501
Undistributed profits tax				203
Federal capital stock tax				44
Federal excises				
Federal-State payroll taxes				276
State income taxes				49
State sales taxes				6
Property taxes				218
State corporate taxes				29
Miscellaneous				1
Total taxes				1,327

WEYENBERG SHOE MANUFACTURING COMPANY

Sales			8,125	8,699
Gross profits			1,476	1,550
Net income			471	262
Profit rate			14.77	8.30
Equity ratio			1.12	1.32
Federal corporate income tax			57	51
Undistributed profits tax			6	X
Federal capital stock tax			4	4
Federal excises			1	3
Federal-State payroll taxes			40	79
State income taxes			23	6
State sales taxes				
Property taxes			25	29
State corporate taxes			X	X
Miscellaneous				
Total taxes			156	172

..... indicate no data available.
X indicates less than \$1,000.

THE S. S. WHITE DENTAL MANUFACTURING CO.

[\$000's]

	1934	1935	1936	1937
Sales.....			8,541	8,941
Gross profits.....			3,158	3,311
Net income.....			524	503
Profit rate.....			6.10	5.85
Equity ratio.....			13.99	14.63
Federal corporate income tax.....			86	71
Undistributed profits tax.....			11	6
Federal capital stock tax.....			7	8
Federal excises.....			1	1
Federal-State payroll taxes.....			25	77
State income taxes.....			25	29
State sales taxes.....			3	2
Property taxes.....			24	26
State corporate taxes.....			25	25
Miscellaneous.....				
Total taxes.....			207	245

WHITE MOTOR COMPANY

Sales.....	20,540	19,908	28,770	30,685
Gross profits.....	6,174	5,052	7,665	7,860
Net income.....	(1,286)	(2,790)	869	227
Profit rate.....	(4.27)	(10.72)	3.30	1.09
Equity ratio.....	12.80	8.61	7.70	4.17
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	30	29	25	25
Federal excises.....	250	312	431	410
Federal-State payroll taxes.....			74	257
State income taxes.....				
State sales taxes.....				
Property taxes.....	230	394	358	190
State corporate taxes.....	12	12	12	12
Miscellaneous.....				
Total taxes.....	522	747	900	894

WHITE SEWING MACHINE CORPORATION

Sales.....	3,419	4,031	5,018	5,512
Gross profits.....	2,186	2,164	2,829	3,094
Net income.....	92	188	375	442
Profit rate.....	1.97	4.40	11.73	13.36
Equity ratio.....	.63	.79	1.89	2.43
Federal corporate income tax.....	0	0	29	66
Undistributed profits tax.....			37	79
Federal capital stock tax.....	2	2	7	7
Federal excises.....				
Federal-State payroll taxes.....			18	58
State income taxes.....	0	0	2	3
State sales taxes.....				
Property taxes.....	60	48	41	50
State corporate taxes.....	5	5	5	6
Miscellaneous.....				
Total taxes.....	67	55	139	269

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

R. C. WILLIAMS & COMPANY, INCORPORATED¹

[\$000's]

	1934	1935	1936	1937
Sales	11,211	10,090	11,126	10,587
Gross profits	1,813	1,679	1,760	1,726
Net income	187	145	219	197
Profit rate	5.57	5.17	7.86	7.21
Equity ratio	1.23	1.27	1.07	1.33
Federal corporate income tax	9	3	19	12
Undistributed profits tax				
Federal capital stock tax	3	3	3	2
Federal excises				
Federal-State payroll taxes		3	16	31
State income taxes	3	2	6	6
State sales taxes	7	4	15	7
Property taxes	27	26	26	27
State corporate taxes				
Miscellaneous	6	9	6	6
Total taxes	55	50	91	91

¹ Fiscal year ended April 30.

WILLYS-OVERLAND MOTORS INCORPORATED

Sales				30,268
Gross profits				4,277
Net income				686
Profit rate				4.75
Equity ratio				5.49
Federal corporate income tax				120
Undistributed profits tax				81
Federal capital stock tax				50
Federal excises				724
Federal-State payroll taxes				168
State income taxes				X
State sales taxes				3
Property taxes				95
State corporate taxes				5
Miscellaneous				X
Total taxes				1,246

WOODALL INDUSTRIES, INCORPORATED

Sales		5,030	5,421	5,730
Gross profits		726	997	615
Net income		414	553	188
Profit rate		36.52	43.74	15.68
Equity ratio		1.83	1.67	2.09
Federal corporate income tax		52	105	28
Undistributed profits tax				
Federal capital stock tax		7	10	10
Federal excises				
Federal-State payroll taxes			13	48
State income taxes				
State sales taxes				
Property taxes		18	20	22
State corporate taxes		2	2	3
Miscellaneous				
Total taxes		79	150	111

... indicate no data available.

X indicates less than \$1,000.

WOODWARD & LOTHROP

[\$000's]

	1934	1935	1936	1937
Sales.....	11,271	13,374	14,586	15,048
Gross profits.....	4,344	5,165	5,636	5,812
Net income.....	861	1,186	1,355	1,140
Profit rate.....	10.04	13.42	14.82	12.19
Equity ratio.....	12.04	11.72	8.48	7.80
Federal corporate income tax.....	130	171	210	175
Undistributed profits tax.....			27	14
Federal capital stock tax.....	9	16	20	21
Federal excises.....	X	X	X	X
Federal-State payroll taxes.....			44	115
State income taxes.....				
State sales taxes.....				12
Property taxes.....	122	123	126	143
State corporate taxes.....				
Miscellaneous.....			1	1
Total taxes.....	261	310	428	481

WOODWARD IRON COMPANY

Sales.....			7,531	9,238
Gross profits.....			3,416	4,329
Net income.....			1,460	2,024
Profit rate.....			6.57	8.50
Equity ratio.....			0.50	1.03
Federal corporate income tax.....			95	179
Undistributed profits tax.....				
Federal capital stock tax.....			11	15
Federal excises.....				5
Federal-State payroll taxes.....			28	99
State income taxes.....			17	31
State sales taxes.....			40	41
Property taxes.....			114	111
State corporate taxes.....			27	30
Miscellaneous.....				
Total taxes.....			332	511

F. W. WOOLWORTH COMPANY

Sales.....	270,685	268,750	290,387	304,776
Gross profits.....	101,317	99,758	106,826	115,282
Net income.....	36,042	34,722	37,235	37,661
Profit rate.....	20.51	18.91	19.29	17.62
Equity ratio.....	31.21	34.09	21.59	10.23
Federal corporate income tax.....	3,600	3,020	3,910	3,725
Undistributed profits tax.....	X	X	300	210
Federal capital stock tax.....	300	455	400	405
Federal excises.....	33	34	44	38
Federal-State payroll taxes.....	X	X	491	1,590
State income taxes.....	268	475	644	814
State sales taxes.....	913	376	476	515
Property taxes.....	3,486	3,501	3,614	3,824
State corporate taxes.....	125	193	227	313
Miscellaneous.....				
Total taxes.....	8,725	8,054	10,106	11,434

.... indicate no data available.

X indicates less than \$1,000.

WORTHINGTON PUMP & MACHINERY CORP.

[\$000's]

	1934	1935	1936	1937
Sales.....	7,766	10,766	15,963	20,707
Gross profits.....	1,497	2,687	4,241	6,509
Net income.....	(1,073)	(78)	335	2,190
Profit rate.....	(5.17)	(0.38)	1.61	10.41
Equity ratio.....	23.93	7.74	7.33	3.13
Federal corporate income tax.....		2	11	309
Undistributed profits tax.....			13	214
Federal capital stock tax.....	9	12	27	49
Federal excise.....				
Federal-State payroll taxes.....			65	255
State income taxes.....				
State sales taxes.....				
Property taxes.....	161	164	146	156
State corporate taxes.....	11	12	12	17
Miscellaneous.....				44
Total taxes.....	181	190	274	1,044

WRIGHT AERONAUTICAL CORPORATION

Sales.....	9,340	7,757	11,377	16,654
Gross profits.....	3,943	3,166	4,854	6,925
Net income.....	1,059	454	1,223	2,608
Profit rate.....	16.11	6.54	15.21	26.97
Equity ratio.....	4.38	13.33	6.53	1.99
Federal corporate income tax.....	54	24	180	401
Undistributed profits tax.....	X	X	7	103
Federal capital stock tax.....	20	13	18	16
Federal excises.....				
Federal-State payroll taxes.....	X	X	48	190
State income taxes.....				
State sales taxes.....	2			
Property taxes.....	60	58	70	73
State corporate taxes.....	X	X	1	1
Miscellaneous.....	X	X		
Total taxes.....	136	95	324	784

YATES AMERICAN MACHINE CO.

Sales.....		1,687	2,314	2,039
Gross profits.....		525	698	585
Net income.....		2	103	(4)
Profit rate.....		0.05	3.48	(0.11)
Equity ratio.....		.99	.99	1.29
Federal corporate income tax.....				
Undistributed profits tax.....				
Federal capital stock tax.....	2	1	2	2
Federal excises.....				
Federal-State payroll taxes.....				25
State income taxes.....				
State sales taxes.....			1	X
Property taxes.....	45	44	44	48
State corporate taxes.....				
Miscellaneous.....				
Total taxes.....	47	45	47	75

..... Indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER
YELLOW TRUCK & COACH MANUFACTURING CO.
[\$000's]

	1934	1935	1936	1937
Sales	28,250	35,857	59,426	73,452
Gross profits	7,806	9,740	17,048	16,571
Net income	(881)	571	5,848	4,048
Profit rate	(2.98)	1.90	14.96	10.21
Equity ratio	12.81	8.10	5.25	4.86
Federal corporate income tax		45	729	506
Undistributed profits tax			21	56
Federal capital stock tax	18	19	204	75
Federal excises	427	607	1,140	1,174
Federal-State payroll taxes			130	512
State income taxes	X	X	27	17
State sales taxes	101	132	189	215
Property taxes	256	190	215	219
State corporate taxes	24	13	67	52
Miscellaneous				
Total taxes	826	1,006	2,722	2,826

YOSEMITE PORTLAND CEMENT CORP.

Sales			777	828
Gross profits			390	422
Net income			150	159
Profit rate			4.99	5.22
Equity ratio			30.67	36.90
Federal corporate income tax			20	22
Undistributed profits tax			2	2
Federal capital stock tax			2	2
Federal excises				
Federal-State payroll taxes			3	6
State income taxes			3	7
State sales taxes				
Property taxes			8	9
State corporate taxes			X	X
Miscellaneous				
Total taxes			38	48

L. A. YOUNG SPRING AND WIRE CORPORATION

Sales	10,595	14,982	17,816	20,690
Gross profits	2,544	4,025	4,686	4,878
Net income	966	2,157	2,386	1,895
Profit rate	13.15	29.76	30.65	18.43
Equity ratio	7.07	6.38	4.42	2.86
Federal corporate income tax	134	322	415	325
Undistributed profits tax			67	55
Federal capital stock tax	18	23	29	30
Federal excises	1	X	1	1
Federal-State payroll taxes			63	240
State income taxes	1	4	15	10
State sales taxes				
Property taxes	130	126	135	170
State corporate taxes	13	12	15	17
Miscellaneous			1	1
Total taxes	297	487	741	849

.... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

THE YOUNGSTOWN SHEET AND TUBE COMPANY

[\$000's]

	1934	1935	1936	1937
Sales.....	63,138	86,789	127,675	144,289
Gross profits.....	19,163	25,322	39,108	47,130
Net income.....	1,767	6,148	14,763	17,107
Profit rate.....	.93	3.17	7.41	8.58
Equity ratio.....	1.09	1.14	1.35	1.85
Federal corporate income tax.....	34	120	511	1,877
Undistributed profits tax.....			4	324
Federal capital stock tax.....	186	223	193	238
Federal excises.....	X			8
Federal-State payroll taxes.....			352	1,306
State income taxes.....	8	11	20	74
State sales taxes.....	19	16	23	31
Property taxes.....	1,458	1,443	1,660	1,715
State corporate taxes.....	46	43	42	65
Miscellaneous.....	4	X	1	2
Total taxes.....	1,755	1,856	2,806	5,640

YOUNGSTOWN STEEL DOOR CO.

Sales.....		2,399	5,915	9,183
Gross profits.....		821	2,294	3,660
Net income.....		318	1,589	2,808
Profit rate.....		8.79	44.30	65.12
Equity ratio.....		11.97	4.32	6.20
Federal corporate income tax.....		35	244	453
Undistributed profits tax.....			83	92
Federal capital stock tax.....		7	16	14
Federal excises.....				
Federal-State payroll taxes.....			9	34
State income taxes.....				
State sales taxes.....		X	2	X
Property taxes.....		11	12	17
State corporate taxes.....		2	3	3
Miscellaneous.....				
Total taxes.....		55	369	613

ZENITH RADIO CORP.¹

Sales.....	4,388	8,538	16,967	17,299
Gross profits.....	1,479	3,142	6,370	5,350
Net income.....	13	1,445	2,640	873
Profit rate.....	.44	35.61	47.96	15.27
Equity ratio.....	8.76	3.58	2.29	5.27
Federal corporate income tax.....		231	395	133
Undistributed profits tax.....			322	27
Federal capital stock tax.....	5	9	54	31
Federal excises.....	61	176	373	330
Federal-State payroll taxes.....			31	84
State income taxes.....			X	X
State sales taxes.....	X	1	1	2
Property taxes.....	17	12	27	45
State corporate taxes.....	2	2	2	3
Miscellaneous.....		4		
Total taxes.....	85	435	1,205	655

¹ Fiscal year ended April 30.

..... indicate no data available.

X indicates less than \$1,000.

() indicate deficit.

CONCENTRATION OF ECONOMIC POWER

ZONITE PRODUCTS CORPORATION

[\$000's]

	1934	1935	1936	1937
Sales	3,437	2,482	2,409	2,774
Gross profits	2,330	1,784	1,808	2,042
Net income	(111)	(83)	229	247
Profit rate	(7.65)	(5.82)	17.76	17.33
Equity ratio	1.95	2.50	4.28	5.31
Federal corporate income tax	35	24	40	30
Undistributed profits tax			50	33
Federal capital stock tax	4	7	25	15
Federal excises	42	21	18	23
Federal-State payroll taxes			4	14
State income taxes	5	2	2	3
State sales taxes			X	1
Property taxes	10	9	6	7
State corporate taxes	3	5	1	1
Miscellaneous				
Total taxes	99	68	146	127

... indicate no data available.

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() indicate deficit.

LETTER FROM METROPOLITAN LIFE INSURANCE
COMPANY

REGARDING TNEC MONOGRAPH NO. 2, "FAMILIES AND
THEIR LIFE INSURANCE" BY DONALD H. DAVENPORT,
SPECIAL ECONOMIC CONSULTANT, AND GERHARD A.
GESELL, SPECIAL COUNSEL, INSURANCE SECTION,
SECURITIES AND EXCHANGE COMMISSION ALSO
REJOINDER BY MR. GESELL



LEROY A. LINCOLN, *President.*

METROPOLITAN LIFE INSURANCE COMPANY,
New York City, January 23, 1941.

Senator JOSEPH C. O'MAHONEY,
Chairman, Temporary National Economic Committee,
Washington, D. C.

DEAR SENATOR O'MAHONEY: In the minutes of the meeting of the Temporary National Economic Committee of January 15, I observe that you expressed the opinion that certain criticisms by the National Association of Retail Druggists of Monograph No. 1 should be incorporated in the Record of your Committee. Accordingly, I am writing to ask that you similarly cause this present letter to be incorporated in the Record of your Committee as a comment upon that part of the report made to your Committee in open session on January 15 by its Executive Secretary, Dr. Dewey Anderson, which had to do with Industrial life insurance. This report was released to the newspapers and presumably is a part of the Committee's official record.

Dr. Anderson's report seems to have overlooked those parts of the Statement, submitted to the Temporary National Economic Committee in behalf of Life Insurance on August 13, 1940, which dealt with Industrial life insurance. This report results in an unfortunate and unmerited attack upon Life Insurance companies generally, which write this form of insurance, and upon the Metropolitan Life Insurance Company specifically. Therefore, in the interests of justice to our Company and its nearly twenty-nine millions of policyholders, I am pointing out in this letter some of the fallacies which are to be found in the report. That part of the report which refers to Industrial life insurance is to be found on page 10 of the verbatim record of the proceedings of the Temporary National Economic Committee on January 15, 1941, as published by the Bureau of National Affairs.¹

The full use by policyholders of the services offered by the institution of life insurance is dependent upon public confidence. No reasonable person could read the report without questioning whether the existing confidence in Industrial life insurance is justified. It is noted that the conclusions are predicated upon what is said to be:

"an ample body of fact * * * assembled in the hearings on Industrial Insurance, supplemented by the very thorough research contained in Monograph No. 2, Families and Their Life Insurance.

The Temporary National Economic Committee has been good enough to place in its records the Statement by 178 life insurance companies which refuted erroneous inferences, material, and testimony presented by the Securities & Exchange Commission, and which offered to submit witnesses to testify in open hearings in support of the companies' statement. The report submitted to your Committee on January 15th makes no reference thereto, whatsoever. As to Monograph No. 2, upon which such report is based in part, it was not the subject of examination and testimony in public hearings before the Committee and its evidential value may well be open to question.

The conclusions in the report relate to Industrial life insurance generally. They are based, at least in part, upon a survey in Boston by W. P. A. workers whose activities were under the general auspices of the Securities & Exchange Commission, which agency drafted Monograph No. 2 and prepared, under the chapter entitled "Summary and Conclusions," its own interpretations. Many of these conclusions have little or no support in the statistical material published in the Monograph. Furthermore, the interpretations practically ignore the statistical material which reflects a view contrary to the testimony offered by the Securities & Exchange Commission during the hearings. To illustrate, the statistics prove conclusively that not only has the Massachusetts Savings Bank Life Insurance Plan failed to serve the industrial classes in any substantial manner, but that without the services of regular life insurance companies, an overwhelming number

¹ See Final Report and Recommendations of the Temporary National Economic Committee, pp. 69, 81.

of these people would have no protection. Yet not a word of this is to be found in the "Summary and Conclusions"

How much weight should be given to these conclusions is apparent when one realizes that the survey covered 1666 families out of the twenty odd million people who have Industrial insurance. The commission itself evidently realized the weakness of such a small sample as a basis for conclusions, because it states on page 4 of Monograph No. 2:

"It is not claimed that the conditions in the area surveyed are necessarily typical. * * * Nevertheless it is felt that the conditions described in this study apply to a very large proportion of the population."

Yet we find no facts in the Monograph to support the contention that the Securities & Exchange Commission's conclusions do "apply to a very large proportion of the population."

It is important to realize the hostile attitude of some of those who conducted the survey underlying Monograph No. 2. We had numerous complaints from our policyholders who had confidence enough in the Metropolitan to report that the Commission's investigators were unfair. The following are a few illustrations of what at least some of the investigators are reported by our policyholders to have said:

"The companies were gypping the people by charging too much money. I would get a lump sum if the law went through. * * * I was very much upset."

"Agents were putting over things on policyholders. There was money due to policyholders but the policyholders didn't know it and he (the investigator) was here to see whether there was any money due me, and if there was, the Government was going to get it from the Company."

"In analyzing my 15-year Endowment policy, he asked why I carried that kind of policy, which gave so little in return. It would be almost wiser," he said, "to put the money in the bank instead."

"Two men came at different times. The first said that people were paying too much of their income for insurance. The second man said that when a person with no relatives or family died, the company kept the money and the Government intended to do something about it."

"When I refused, he was angry and said that he would see the Insurance Commissioner who would force me to show my policies."

Let us now observe some illustrations of inaccuracies contained in Monograph No. 2. In Chapter Three, the statement is made that in Massachusetts the John Hancock has only 24% as many Industrial policies as the Prudential. The annual report of the Massachusetts Commissioner of Insurance for 1938 shows that the John Hancock had 64% more of such policies than the Prudential.

Then in the discussion of the insurance program of the Jameson family, it is stated:

"It is a little hard to understand this mixture of industrial and savings bank life insurance—particularly how Mr. Jameson was persuaded to pay \$23.92 for \$500 of Industrial insurance almost on the same day that he found out he could get twice as much savings bank life insurance (and that on the endowment plan) for only \$22.48."

As the Monograph states that the Savings Bank policy referred to was a 20 Year Endowment, it is interesting to note that the Savings Banks' published rates for such a policy indicate the premium would have been about \$44 per \$1,000 of coverage, and not \$22.48.

Much emphasis was placed in the "Summary and Conclusions" in the Monograph upon the unproved allegation:

"That there is an over-loading of policies in many families" and "that low income families, where the average per family member income is in the neighborhood of \$300, should be spending as much as 24% of that income for insurance premiums is inexcusable and it is startling to realize that 9.59% of the non relief families and 8.67% of the relief families spent 10% or more of their income upon insurance premiums."

It is unfair to charge over-loading on any basis other than the relationship of the total family income to the total industrial family premiums at the time the policies were taken out. Speaking for the Metropolitan, a real effort is made, before the issuance of a policy, to keep the total premiums paid within the

financial ability of a family. That the companies have succeeded in such efforts, by and large, is obvious from the over-all figures in the Monograph which indicate that the average percentage of the family income, spent for Industrial insurance was only 4.92%. Certainly this would not support any charge of overloading policies generally.

To investigate alleged over-loading, the survey should have inquired as to what the incomes of the alleged over-loaded families were at the time the policies were taken out. Yet on this controlling factor the report contains nothing on which to establish these figures for the families referred to. Nor will one find an iota of information in the "Summary and Conclusions" as to whether the Industrial policyholders interviewed regarded their life insurance programs as not in keeping with their particular circumstances, or the total family premiums representative of an undue portion of the family income.

Is it the purpose of the Securities & Exchange Commission to recommend that Industrial insurance policyholders shall be arbitrarily controlled in their discretion as to the number and face amount of Industrial life insurance policies, previously purchased, which they may retain? Certainly the life insurance companies have no right, once a policy is issued, to make such arbitrary decisions. Yet it is alleged that there is over-loading because the total family premiums for Industrial life policies, which have been in force on the average for some years, appear to the Securities & Exchange Commission to represent an unreasonable percentage of the current family income.

Only the policyholders themselves have the right to determine what reductions, if any, are to be made in the number of their existing insurance policies when adversity of one sort or another overtakes their respective families. It is clear that in cases of this kind those involved will usually elect to continue that form of thrift in which they have the most confidence. In the light of the record of life insurance over the years and particularly during the past depression, can any reasonable person say that the confidence of these policyholders is misplaced? If not, who is better able or has a better right to determine what percentage of the families' income should remain in life insurance or other forms of thrift than the policyholders themselves?

In further support of the allegation of overloading, much is made in the Summary and Conclusions in the Monograph of the large number of policies held in a few families. However, elsewhere in the Monograph statistics show that among families only Industrial life insurance, the average family, consisting of 4.3 members, had only 5.6 policies. It must be apparent that a charge of overloading cannot be sustained generally and if it exists, it is in a few isolated cases. Accordingly, we find the Monograph endeavoring to prove a general conclusion by isolated cases. To illustrate:

"84 families carried more than 15 policies each at the same time, with numbers ranging as high as 43 policies in the case of one family." (It is to be noted that these 84 families were selected from the total of 1666 insured families which were studied.)

There is nothing in the Monograph to indicate what the incomes of these families were when the policies were taken out and, therefore, there is no evidence of overloading by the companies.

Furthermore, the chapter on "Summary and Conclusions" carefully refrains from pointing out that there were about seven members, on the average, in these particular families, whereas the average for all families holding Industrial insurance is slightly more than four. In other words, the families holding the larger number of policies have more members to insure and therefore have more policies than the average.

As to the case where 43 policies were held by one family (referred to as the "Baker" family), it is interesting to note that there are ten members in the family, that these 43 policies had been accumulated over a 43-year period, that the family income is \$4,224, that the family is spending 10.9% of its annual income for the payment of life insurance premiums, and that *it has never lapsed or surrendered a policy which it obtained*. Who, with propriety, can say that this family should not hold to its Industrial insurance? Where is there any evidence in the Monograph that, at the time the policies were taken out, the total premiums represented an unreasonable part of this family's income?

If the thesis set forth by the Commission is sound, namely, that a high percentage of income devoted to Industrial life insurance is undesirable, then the lapse rate in the cases where this is so would be abnormally high, yet the reverse, on the average, is true. Abnormal lapse rates are found generally among the

families which have a small number of policies rather than among those whose confidence in life insurance is so real that they have a considerable number.

It is further charged in the Monograph that there has been a "sale of insurance to families on relief." In the entire Monograph, only one instance is presented where the sale of insurance was made to a family receiving relief at the time the insurance was sold. The rules of the Metropolitan absolutely forbid the issuance of new insurance to families receiving relief. We know that other companies have similar rules. It is clear that the policies in force in families on relief, which were reviewed during the survey, must have been written before economic adversity affected the incomes of the families interviewed.

As to the statement that there is

"an apparent absence of any technique for satisfactorily readjusting insurance programs in the light of these changing circumstances"

the Commission ignored much evidence under oath by witnesses before the Temporary National Economic Committee as to what the companies themselves have been doing in this respect and as to the work of the Life Insurance Adjustment Bureau which is maintained by companies to cooperate with relief and welfare agencies on adjustment matters.

The "Summary and Conclusions" of the Monograph assert that:

"The failure of the distributive system to give proper service to the insured is clearly demonstrated in the many families where the breadwinner was inadequately insured".

Dr. Anderson referred to this idea in his presentation before the Temporary National Economic Committee. This criticism in the Monograph is based upon the so-called "startling" findings in the Summary and Conclusions:

"That in the insured families 11.58% of the chief breadwinners and 20.21% of the 'other breadwinners' were not insured at all, and that from among 1,071 families which carried Industrial insurance there were 730 cases where the percentage of premiums paid by the family for insurance on the life of the chief breadwinner was less than 50% of the total."

Instead of these figures serving as a basis for any criticism, they should have been used to commend the agency system for its effective work! Those figures really show that agents have prevailed upon 88.42% of the chief breadwinners to insure their lives voluntarily, and 79.79% of "other breadwinners" to do likewise. This impresses me as a most remarkable record, especially when it is realized that some of the uninsured breadwinners are not eligible for life insurance because of their physical condition, etc., while others may not wish to own it. Obviously, it follows that in those cases where the breadwinner is unable or unwilling to insure his life, it is better that the other members of the family be insured than that the family be left entirely without insurance.

The Metropolitan emphasizes to its agents the importance of insuring chief breadwinners and we have every reason to believe that our agents are thoroughly cooperative in seeking this objective. As to the criticism of those cases where less than 50% of the total family premiums for Industrial life insurance are spent on the lives of the chief breadwinners, we can only say that the policyholders themselves must determine questions of this character. We cannot ignore the economic loss sustained by the low income families through the death of the wife. The inconsistency of the criticism, though, is obvious from the reference in the Monograph to the insurance program of the Roxby family, which had only savings bank life insurance. Here it is stated that:

"the distribution in amounts shows evidence of intelligent planning in the program for the family",

and the concluding sentence reads:

"It should be noted that 39% of the total premium was paid for insurance on the life of the only breadwinner."

As evidence of inconsistency, contrast this commendation of 39%, in a case having savings bank life insurance, with the previously quoted statement which singled out for special critical comment cases where the percentage of premiums, paid on the lives of the chief breadwinners, was less than 50% of the total and therefore viewed as improper. It is interesting to note that the latter cases had insurance with regular companies.

The material contained in the Monograph does not substantiate the charge made in the chapter entitled "Summary and Conclusions" that unsound distribution of Industrial insurance has caused heavy lapsation, yet we are told:

"That as a result of this unsound distribution and the changing economic circumstances of the policyholders, there is much lapsing of policies."

This statement is made despite the fact that two-thirds of the insured families referred to in the report had never lapsed or surrendered a single policy. Unfortunately Dr. Anderson's report contained the same mistake the Securities & Exchange Commission made when it endeavored to measure the loss to policyholders through lapses in terms of the number or face amount of insurance of policies issued. The report to your Committee indicated that "from 50% to more than 75% of the new (Industrial life insurance) policies issued" were lapsed. The current experience of the Metropolitan indicates that less than 15% of the new weekly premium policies issued lapse before a non forfeiture value is available. It will be noted that the Metropolitan is specifically referred to in this report as one of the two companies which carry the major part of Industrial life insurance.

Dr. Anderson did, however, touch upon the real test for measuring the loss to policyholders through lapses when he referred to "the aggregate money loss" to policyholders. This means the actual money which holders of lapsed policies are out of pocket. The Statement on Life Insurance, submitted by life insurance companies, treats with this subject on Pages 50, 51, 52, and 53. It indicates that:

"Of the premiums paid since issue on the Industrial policies, terminating in 1937, 2.7% had been paid on the policies that lapsed. For 1938 and 1939 this percentage would be even less."

That Statement also pointed out that these very policyholders had their insurance protection while their policies were in force. Policyholders do die during the early months when a policy is in force; for instance, the Metropolitan Life Insurance Company in 1940 paid out \$1,692,000 on Industrial insurance policies, which had been in force less than one year. It is high time that the public should understand the fallacy of alluding to total amounts of insurance in force as a tragic loss when policies are lapsed.

The report presented to the Committee by Dr. Anderson refers to a figure of \$33,011,000 as the aggregate amount of money lost through lapses and surrenders by the policyholders of the two companies which write most of the Industrial life insurance. Evidently this figure was taken from the Gain and Loss exhibits formerly included in the annual statements of the particular companies. This is based on an erroneous assumption that the technical "Gains" from lapses and surrenders of Industrial policies during 1938 were profits for the companies involved and losses for the policyholders. The real function of the Gain and Loss exhibit is explained on Pages 63 to 65 of the "Statement on Life Insurance" which we previously referred to. A perusal of such Statement will clearly indicate that the so-called "gains" are not profits. Assuming that they were profits, both of the companies being mutual, such profits would have been passed on to policyholders in the form of dividends.

The "Summary and Conclusions" in Monograph No. 2 indicate that the Securities & Exchange Commission has established in the Boston survey, which covered an infinitesimal percentage of the total Industrial policyholders in the United States, that the selling methods of life insurance companies are the primary causes of lapses. For reasons previously set forth in this letter, this interpretation cannot be accepted because it is contrary to experience not only in Boston but throughout the country. The Commission's interpretation is so emphasized however that a casual reader will overlook in the "Summary and Conclusions" the few words which suggest "the changing economic circumstances of the policyholders" is a cause of lapsation. As shown in the Statement on Life Insurance, submitted to your Committee by the life insurance companies, the basic causes for lapses are beyond the control of the companies. To illustrate, this Statement contains a chart which shows a definite correlation between economic conditions and lapses; in fact, it demonstrates that as business conditions improve, lapses decrease, and conversely, when business is bad, lapses are high.

It is interesting to note that the Monograph contained nothing about the timely assistance which comes to families in distress from funds paid by life

insurance companies in cash surrender values and for death claims. Nor did the "Summary and Conclusions" include information about the widespread satisfaction of policyholders and beneficiaries with the service rendered by life insurance companies. It would seem that a complete understanding of Industrial life insurance would have prompted the Commission to make some effort to collect information of this character, as well as to establish the social and economic values arising from the prompt and fair fulfillment of the contractual obligations of the companies. No other system has brought, to the low income groups, the opportunity to secure protection upon terms within their reach.

It is significant that in the "Summary and Conclusions" of the Monograph not a word is to be found about the efforts of the various companies to help Industrial policyholders to get the most for their insurance premiums. The two elements which are responsible for the extra cost of Industrial life insurance, in comparison with Ordinary insurance, arise from the higher mortality experienced by Industrial classes and the extra expense of handling insurance in small units on the weekly basis. Speaking for the Metropolitan, we have not been content to stand idly by without endeavoring to be of real service to our Industrial policyholders. A few of our efforts may be of interest.

We maintain a health program and cooperate with public and private agencies in a continuous effort to bring health and longer lives to Industrial policyholders. That this cooperative effort has met with success is evident during the past thirty years. No reference was made in the report to your Committee on January 15 to a statement already in its Records which relates in some detail to a number of the health and welfare activities of the Metropolitan in behalf of its Industrial policyholders.

We want our policyholders to get the greatest amount of insurance for the least amount of money. Since 1912 we have offered our Industrial policyholders an opportunity to reduce the cost of their insurance by 10% under certain conditions whereby they pay their weekly premiums at one or another of our district offices, instead of having an agent call at their home to collect. Last year about 30% of Metropolitan weekly Industrial premiums were paid at our district offices by policyholders. Furthermore, for those who can afford to pay premiums on a monthly basis, we established years ago Monthly Premium insurance. This provides more insurance at less cost than weekly Industrial life insurance for those who can make payments on a monthly basis. For policyholders who can afford to buy \$1,000 of Ordinary life insurance at one time, we have also made it possible for them to pay on a monthly basis. Both the Industrial and Ordinary monthly insurance departments have met with popular favor and therefore have had a splendid growth.

I am writing to solicit your good offices to the end that the unfortunate impression which may have resulted from the report in question may be in a measure corrected by incorporating this letter in the record of the Temporary National Economic Committee. I ask this in common fairness, even though the news releases carried no approval or authorization by the Temporary National Economic Committee.

Sincerely yours,

LEROY A. LINCOLN, *President.*

REJOINDER BY GERHARD A. GESELL TO LETTER FROM METROPOLITAN LIFE INSURANCE CO

SECURITIES AND EXCHANGE COMMISSION,
Washington, February 18, 1941.

DEWEY ANDERSON,

*Executive Secretary, Temporary National Economic Committee,
331 Apex Building, Washington, D. C.*

DEAR MR. ANDERSON: On February 7, 1941, you referred for comment a letter to Senator O'Mahoney dated January 23, 1941, from the President of the Metropolitan Life Insurance Company relative to Monograph No. 2 of the Temporary National Economic Committee entitled "Families And Their Life Insurance." I wish to state the following in respect of the criticism of this monograph contained in the above letter.

First, as to the charge that the W. P. A. enumerators, who made the house to house survey upon which this Monograph is based, manifested a "hostile attitude" and "were unfair," permit me to call attention to explicit written instructions given each enumerator. A copy of such instructions is printed in Appendix 4 of the Monograph. They contain the following statement.

"Enumerators and clerks will be sworn to handle the information obtained in a confidential manner and not to reveal to any unauthorized person facts relating to the survey. Enumerators must not give advice to persons interviewed on the wisdom or adequacy of their insurance holdings. If advice is sought the questioner should be referred to the State Insurance Commissioner, Hon. C. F. J. Harrington, Boston, Mass.

"It must be made clear that this survey is solely for the purpose of determining the facts relating to the holders of life-insurance. It is not an attack upon the life-insurance business nor is there any criticism intended of the policies or practices of any insurance company. The enumerators must not convey the impression that either they, or those conducting the survey, look with disapproval on any company or on any kind of insurance or on any amount of insurance held by individuals."

The above instructions were emphasized time and again while enumerators were being trained and every possible effort was made to conduct the survey in an objective and dispassionate manner. While it was impossible to check the conduct of each enumerator, no information was ever received indicating that the enumerators had conducted themselves in the manner indicated. In the course of the survey we did receive information to the effect that a certain individual was calling upon policyholders in the area under survey falsely representing himself to be employed by the Securities and Exchange Commission. This individual, who had no connection with the survey, was apparently anxious to obtain information from policyholders for ulterior purposes. The incident was brought to the attention of the Federal Bureau of Investigation.

It is true the report was in error in stating that the John Hancock had only 24% as many industrial policies as the Prudential. The correct percentage should have been stated as 64%. This error, however, has no bearing whatsoever on the validity of the conclusions reached in the Monograph. As to the comments with regard to the "Jameson" family, the error mentioned in the letter from the President of the Metropolitan was noted prior to release of the Monograph and an errata sheet reading as follows was inserted in copies of the Monograph:

"The two 20-Year Endowment Policies in the Savings Bank Life Insurance System recorded on page 74 as held by William Jameson and Hannah Jameson, respectively, should each be designated as whole life policies."

In selecting Massachusetts for the purposes of this survey, an area was chosen which is almost exclusively serviced by the three largest industrial companies. We are convinced from sample surveys made in the District of Columbia and from our general study of the situation that the conditions in Massachusetts, a state which has always been noted for strict insurance regulation, are far better than many other areas of the country, particularly those areas where extreme competition exists among numerous smaller industrial companies. Indeed, I am inclined to feel that the conditions nation-wide are more serious than indicated in the particular areas surveyed. It is true that the Monograph states, as the President of the Metropolitan is at great pains to point out, that it is not claimed that the conditions in the area surveyed were necessarily typical. He omits including in his excerpts from this portion of the Monograph, however, the following words appearing at page 4 of the Monograph, immediately following the comment on conditions in the area surveyed, to wit: "indeed, there are many reasons to believe that they may be somewhat better than those existing elsewhere."

Criticism is also directed against the statement contained in the Summary and Conclusions to the effect that there is an "overloading" of policies in many families. This statement is amply supported by the facts set forth in the body of the Monograph. It should be obvious to anyone who reads this volume with care that the coverage in the various family groups is considered in the light of their holdings and income at the time of the survey. To use but one illustration, there were 36 relief families spending 10% or more of their income on insurance premiums and 6 of these families were spending in excess of 16%. Surely such a situation is indicative of overloading of policies in these particular families. The figure of 4.9%, which is the overall figure indicating the average percentage of family income spent for insurance, is not of any value taken by itself. As the Monograph demonstrates, this is purely an average figure and fails to disclose the numerous cases where families are spending substantially in excess of this amount for insurance premiums. The use of such an average without regard

to the variations above and below that figure indicates an unwillingness to face the realities of the situation.

The President of the Metropolitan Life Insurance Company also criticizes the Monograph because it did not present information indicating the income of family groups at the time the various policies were taken out. In test enumerations made before the W. P. A. project was formally initiated, we attempted to learn the income of families at various dates prior to the date of enumeration without success. It is difficult to determine the amount of family income even on the date of enumeration since so many intangible factors are involved and it was found to be literally impossible to obtain information on this subject for previous dates. Not only do the families fail to keep any records but their income fluctuates considerably, particularly in the case of relief families where casual employment and changes in the type of relief received may have a substantial effect upon the total family income. Added to this is the fact that the family's chief breadwinner, who is most conversant with such matters, is usually the person away from the home the longest and the one most difficult to interview.

Furthermore, it seems to me that it is begging the question to argue that at the time the policies were sold the income of the family may, in some cases have justified taking out the insurance in question. The point which has been urged in the Monograph and which has been the basis for the examination of several witnesses before the Committee is clear; namely, that regardless of their good intentions, the large industrial insurance companies have not yet been able to work out a satisfactory arrangement for readjusting the insurance holdings of low income families when the income of such families is adversely affected by economic circumstances or for other causes. The Life Insurance Adjustment Bureau was shown to have done only a partial job in respect of a limited type of family situation. Its very existence, however, proves the need and it remains the uncontroverted fact that the industrial companies have not satisfactorily met the problem in respect of the great bulk of industrial policyholders.

Reference is also made to our failure to present information concerning lapsed and surrendered policies. The leading industrial companies had repeatedly advised us that they could not give us information of this character for particular family groups and we were most anxious to obtain it through the survey. Unfortunately, the policyholders have no record of their lapsed insurance or surrendered insurance and though there were many, many cases where policyholders were in a position to exhibit some lapsed policies, our experts at no time felt that the number of policies shown or the information given concerning lapsed or surrendered policies was sufficiently accurate to be included in the survey. We are confident from our experience, however, that the lapsing of policies was severe and there most definitely is not any basis for the statement appearing on page 8 of the letter from the President of the Metropolitan to the effect that two-thirds of the families referred to in the report had never lapsed or surrendered a single policy.

A few additional matters deserve brief mention. The Metropolitan states that less than 15% of new weekly premium policies lapse before a non-forfeiture value is available. This statistic does not answer the implications implicit in the discussion of high lapsed rates for it does not controvert the facts shown as to the company's previous experience nor does it give any reliable measure of the extent to which new policies now being written terminate through premium default during the first year. While the availability of earlier non-forfeiture values may reduce lapse, it is still clear that any policy on which premium payments are defaulted in the first year is a policy which has resulted in a loss to the policyholder, i. e. that he has paid in more than the cost of the protection he receives. Figures which are a more reliable measure of the Metropolitan's experience in this regard are shown by those statistics indicating the relation between the number of new policies issued and the gain in policies in force during any given year.

The Metropolitan's nursing service was referred to in the Monograph on page 55, contrary to the implication contained in the letter from its President. Furthermore, while there was no definite statement in the Monograph about the timely assistance which comes through cash surrender values and death claims since information to provide the basis for such a statement could not be accurately obtained, the point was referred to at page 60 of the Monograph. Finally, there is ample basis for designating the insurance program of the "Roxby" family as well planned. Not only did that family confine its insurance to one organization, which is in itself an advantage, but it also had the fourth highest percentage of its premiums payable on insurance covering the breadwinner in spite of the

fact that it was an unusually large family group. These factors rather than the circumstances that the insurance was savings bank life insurance prompted the favorable reference. And in this connection, it might be stated that no effort was made in this Monograph to criticize or support savings bank life insurance but since the issue has been raised it might well be noted that other areas would have been far more favorable to the savings bank life insurance system than would that chosen for purposes of the survey.

There are other portions of the letter from the President of the Metropolitan which perhaps deserve comment but since they are mostly matters of argument rather than of fact, it is my preference to let the facts speak for themselves. It is impossible to reconcile different points of view. The Summary and Conclusions is fully supported by the facts revealed in the body of the Monograph. Since these facts are set forth in full and have not been challenged except in very minor respects, the opportunity is presented for any interested person to analyze the Summary and Conclusions in the light of those facts.

Very truly yours,

GERHARD A. GESELL,
(Gerhard A. Gesell)
Special Counsel.



LETTER FROM THURMAN ARNOLD, ASSISTANT
ATTORNEY GENERAL, DEPARTMENT OF
JUSTICE, REGARDING T. N. E. C.
MONOGRAPH NO. 43, "THE MOTION
PICTURE INDUSTRY—A PAT-
TERN OF CONTROL," BY
DANIEL BERTRAND, W.
DUANE EVANS AND
E. L. BLANCHARD



DEPARTMENT OF JUSTICE,
Washington, March 24, 1941.

Mr. DEWEY ANDERSON,
*Executive Secretary, Temporary National Economic Committee,
Federal Trade Commission, Washington, D. C.*

DEAR SIR: Enclosed herewith is a memorandum for the Temporary National Economic Committee dated March 24, 1941, indicating the views of the Department of Justice with respect to Temporary National Economic Committee Monograph No. 43, entitled "The Motion Picture Industry—A Pattern of Control."

It is requested that the memorandum and the Department's public statement of October 29, 1940, attached to the memorandum, be made a part of the record.

Very truly yours,

THURMAN ARNOLD,
Assistant Attorney General.

MEMORANDUM FOR THE TEMPORARY NATIONAL ECONOMIC COMMITTEE

Re: T. N. E. C. Monograph No. 43, entitled "The Motion Picture Industry—A Pattern of Control."

It is unfortunate that the otherwise excellent monograph on the motion picture industry is marred by a misleading and inadequate discussion of the consent decree entered by the District Court of the Southern District of New York on November 20, 1940, in the Government's action against the major motion picture companies. This discussion is contained in Appendix III and our criticism is solely directed to that appendix.

The inadequacies of this discussion are based on two errors. First, the decree itself is not set out in the report and it is not considered as a whole by the author of the appendix. Certain excerpts are quoted and conclusions drawn therefrom. Other provisions of the decree which militate against these conclusions are omitted from the appendix. Second, the writer of the monograph apparently does not realize that the decree gives additional remedies to exhibitors of motion pictures and does not take away any of the existing remedies under the antitrust laws.

For example, any exhibitor suffering a discrimination prohibited by the decree has two alternatives: (1) He may bring an action for triple damages, or equitable relief, or both, under the antitrust laws, in which action it will usually be necessary to prove, subject to the rules of evidence, a conspiracy between the offending companies. (2) He may use the more convenient and less expensive arbitration machinery set up by the decree in which proof of conspiracy is not required and conformity to legal rules of evidence is not necessary. The author does not realize that this machinery is an additional safeguard rather than a substitute for the antitrust laws.

If the decree limited the application of law to exhibitors, it would be a dangerous experiment. No one can foresee the possible abuses of monopoly power which may arise in the future, and therefore no one should attempt to legislate against them by any form of decree. The Government has not done this. The exhibitors are not bound by the decree in any way except for their own advantage. They are not compelled to utilize any of its provisions unless they so desire.

At the time the decree was entered, the consenting defendants were faced with many problems which did not exist at the time the action was filed. Most of them were confronted with the loss of a substantial part of their foreign business. Huge investments had been made both here and abroad, and it appeared that a further dislocation of these companies at this time would not be warranted if their operations could be brought into harmony with the antitrust laws.

The monograph quotes from a public statement of the Department at the time the action was instituted concerning the purpose of the action. In order to present a complete picture of the Department's position, it is believed that the purpose of the Department in signing the decree to provide a forum for the expeditious settlement of disputes between exhibitors and distributors, as announced in its public statement of October 29, 1940, should be incorporated in the record.

A copy of this statement is attached hereto, and it is suggested that it be made a part of the record.

What the decree itself does is to provide the dominant trade, upon which people depend for amusement, with an instrument of government. It represents an attempt to shape the judicial process to the life of an industry at work. It is a series of additional privileges given to exhibitors to protect them against the practices of the larger organizations which distribute motion pictures on a Nation-wide scale.

THURMAN ARNOLD,
Assistant Attorney General.

[Public statement released October 29, 1940]

DEPARTMENT OF JUSTICE—DIVISION FOR ENFORCEMENT OF ANTITRUST LAWS

UNITED STATES *v.* PARAMOUNT PICTURES, INC., ET AL.

(U. S. D. C. S. D. N. Y.—Eq. No. 87-273)

STATEMENT OF GROUNDS FOR ACTION

PROPOSED CONSENT DECREE

DEPARTMENT OF JUSTICE,
October 29, 1940.

The Department of Justice today announced the filing of a consent decree under the terms of which five major moving-picture companies agree to terminate practices which have long been the subject of dispute.

The decree, which was filed today in the United States District Court for the Southern District of New York, calls for termination of the sales practice known as "blind selling" and drastic modification of the so-called "block booking" methods of the defendant companies.

Companies consenting to the decree are Paramount Pictures, Inc., Loew's, Inc., RKO Pictures, Inc., Warner Brothers Pictures, Inc., Twentieth Century-Fox Film Corporation and their subsidiary and affiliated companies.

United Artists Corporation, Universal Pictures Co., Inc., and Columbia Pictures Corporation, three other companies named in the original complaint have not joined in the decree. An open hearing will be held before the Honorable Henry W. Goddard, District Judge, on November 14, 1940, at 10:30 A. M., at which time interested persons not parties to the suit will be given an opportunity to present their views with respect to the proposed decree.

In addition to revising selling practices of the five signatory companies, the decree sets up a system for the arbitration of disputes between exhibitors and distributors to be administered by the American Arbitration Association. In order to give this arbitration system a fair trial, the government agrees not to seek divorcement or dissolution of production and distribution in the industry for a period of three years. During this period the signatory companies agree not to engage in any general program of expansion of theatre holdings and to maintain the status quo so far as is practicable.

PRACTICES AFFECTED BY THE DECREE

Blind Selling and Block Booking.

The decree strikes at two selling practices in the motion-picture industry which have long been under attack by exhibitor organizations, as well as parent-teacher associations and other public groups, i. e., block booking and blind selling. Various proposals to eliminate these practices have been suggested from time to time, and legislation to that end has been under consideration by Congress.

Under the present practice, at the start of each motion-picture season an entire year's supply of pictures is sold at one time. The contract is executed before production has started on the majority of pictures covered by it. An exhibitor must rely on what is at best but a sketchy outline of the pictures the distributor intends to produce. This selling practice is commonly known as blind selling. Not infrequently the completed picture differs materially, with respect to story, cast of characters, and quality, from the outline previously presented to the exhibitor. As a result, an exhibitor often finds himself in a position where he must play a picture which he would never have licensed if he had seen it.

Trade Showing.

Blind selling is prohibited by the decree. Pictures must be completed and exhibited to the trade before they can be sold or offered for sale. The defendant companies are required to trade show their pictures in each of their respective exchange districts. Thus every exhibitor is given an opportunity to see the pictures before he buys them.

Under existing practice, each distributor tries to sell as many pictures at one time as it possibly can and requires exhibitors to contract for all or substantially all of the season's output in order to get any of its pictures. As many as fifty pictures may be included in a single block. This is the practice that is known as block booking.

As a result of this practice, exhibitors have practically no opportunity to select pictures based on the local tastes of the communities which they serve. In addition, the playing time of theatres is filled by pictures bought in large blocks from the defendant companies, and exhibitors have little screen time available for showing the product of independent producers.

Selling in Blocks of Five.

The decree prohibits the licensing of more than five pictures in a single group. It does not prohibit the licensing of less than five pictures in a single group; distributors are free to sell pictures one at a time or in groups of two, three, or four. Although distributors may sell more than one group of five pictures at a time, they may not condition the sale of one group of pictures on the sale of another picture or group of pictures.

Under the method of selling prescribed by the decree, if an exhibitor finds that a particular group of pictures contains some that are objectionable, he can request that these pictures be eliminated or that other pictures be substituted for them. If the distributor refuses to grant his request, the exhibitor is in a position to reject the group without jeopardizing his entire year's supply of films.

The decree neither requires distributors to grant nor prohibits them from granting to exhibitors the privilege of cancelling one or more pictures in a given group. As a result of the process of bargaining between distributors and exhibitors, cancellation privileges in varying degrees have been granted by distributors in the past though they have not been legally required to do so. Under the decree, the parties are free to bargain with respect to cancellation as well as with respect to the particular pictures to be included in a given group.

Offensive Pictures.

Exhibitors are given the right to cancel any picture that is locally offensive on moral, religious, or racial grounds.

Because pictures to be released during the present selling season have already been contracted for, the provisions of the decree with respect to trade showing and sales in small blocks do not become effective until the opening of the new selling season on September 1, 1941.

Benefits to be Anticipated.

It is reasonably to be expected that the provisions of the decree as to trade showing and sales in small groups will result in an improvement in the quality of pictures as well as in greater opportunity for local community tastes to be reflected in the pictures selected by exhibitors. This new method of selling should open to independent producers a market now closed to them under the system of season block booking. In addition, exhibitors will have greater and more frequent opportunities to compete for pictures.

Although the method of selling provided for in the decree is new and untried in the motion-picture industry, it is believed that it will be of benefit to exhibitors and distributors, as well as to the public. Whether or not the new method of selling will operate effectively can only be determined after a fair trial and that is provided for by the decree.

ALLEGED UNFAIR TRADE PRACTICES

The suit charged that the defendants had engaged in certain unfair and discriminatory trade practices to the detriment of independent exhibitors. Among these practices were the following:

- (1) Granting certain theatres unreasonable clearance over other theatres;
- (2) Discriminating in favor of large circuits of theatres and against small independent exhibitors by licensing pictures on preferred runs to the circuit theatres;

- (3) Refusing to license pictures at all to certain theatres;
- (4) Forcing exhibitors to buy short subjects, newsreels, trailers, serials, reissues, or westerns as a condition of licensing feature pictures;
- (5) Arbitrarily withholding available prints for the purpose of giving a competitive advantage to certain exhibitors over others.

ARBITRATION OF DISPUTES

To provide a forum for the settlement of complaints with respect to the trade practices described above, the decree sets up a system for the arbitration of disputes between exhibitors and distributors. In this respect, the decree is unique. Its approach to the solution of the problems existing in the industry differs from that of any consent decree heretofore entered pursuant to the provisions of the antitrust laws. Instead of merely prohibiting certain practices and leaving enforcement to the ordinary process of contempt proceedings instituted by the Government, the decree provides a forum in which exhibitors are given an opportunity to have their complaints promptly heard and promptly decided independently of any action by the Government.

The arbitration machinery will be administered by the American Arbitration Association. The decree provides that a panel of not less than ten arbitrators shall be established in each of the thirty-two exchange centers in the United States. The arbitrators, who are to be selected by the American Arbitration Association, must be persons having no past or present connection with the motion-picture industry. Arbitration can be instituted by the payment of a nominal filing fee. Controversies are to be heard by arbitrators from the panel, selected either by agreement of the parties or by the American Arbitration Association. Persons whose business or property may be affected by an award are given the right to intervene as parties and to participate in the proceeding.

Provision is made for an appeals board of three members to be appointed by the Court to hear appeals from decisions of the local arbitrators. The board is to have its offices and hold its hearings in the City of New York. The cost of maintaining the arbitration system is to be borne by assessments levied against the defendant companies.

This arbitration system will provide a simple, speedy, inexpensive and impartial remedy for the settlement of disputes between distributors and exhibitors.

JURISDICTION RESERVED FOR FURTHER RELIEF

The petition filed by the Government in this case asks the court to order the divorcement of production and distribution of pictures from exhibition. The petition is based on the theory that divorcement of production and distribution from exhibition is necessary to eliminate the unfair competitive practices in the industry and to restore fair competition therein. The purpose of the present decree is to provide a means for the elimination of unfair competitive practices in the industry without resorting to the more drastic remedy of divorcement.

The establishment of a system of arbitration to implement the slower and more expensive remedy of private suits under the antitrust laws supplies a long-felt need in the motion-picture industry. It is to be noted, however, that the decree takes away no existing legal rights of any exhibitor under the antitrust laws. It provides an additional forum for the settlement of disputes for which no provisions have heretofore been made. Properly administered, it should put an end to disputes between distributors and exhibitors which have been a constant source of discord and friction in the past and should result in placing the industry on a fair competitive basis. If these results are not obtained after a reasonable trial period, there will be no alternative for the Government but to proceed with the litigation and press for a revision of the entire industry structure in accordance with the prayer of the petition.

To give the arbitration system a fair trial the Government will not seek divorcement or dissolution for a period of three years. In the interim the defendants have agreed not to engage in any general program of expansion of theatre holdings, with certain stated exceptions. Thus the status quo will be maintained during the three-year period to the extent that it is practicable.

PARTIES CONSENTING TO DECREE

The companies consenting to the decree are Paramount Pictures, Inc., Loew's, Incorporated, RKO Radio Pictures, Inc., Warner Brothers Pictures, Inc., Twentieth Century-Fox Film Corporation and their subsidiary and affiliated companies

All five of these companies are engaged in the exhibition of pictures as well as in production and distribution. Three of the companies that were named in the original complaint, namely, United Artists Corporation, Universal Pictures Company, Inc., and Columbia Pictures Corporation, have not joined in the decree. None of these companies owns any theaters. The case will proceed to trial against these three companies at a time to be fixed by the court. To protect the consenting defendants against the competitive advantages that the three non-consenting companies may enjoy if they are not required to conform their selling practices to the provisions of the decree with respect to trade showing and sales in small groups, the decree provides for the determination of these provisions as against the five consenting companies in the event the Government has not succeeded in procuring a decree requiring the three non-consenting companies to comply with similar provisions by June 1, 1942. All of the other provisions of the decree remain in effect regardless of the outcome of suit against the three non-consenting companies.

CONTINUED SUPERVISION BY DEPARTMENT OF JUSTICE

The Department proposes to keep a constant check on the operation of the decree. The records of the arbitration system are subject to inspection by the Department at all times, as are the records of the defendants relating to the operation of the decree. A unit will be established in the Antitrust Division to keep in touch with the operation of the decree and to handle complaint with respect to it. As a result of the information thereby obtained, the Department will be in position to determine what further action, if any, need be taken at the end of the trial period.

REJOINDER BY W. DUANE EVANS

APRIL 2, 1941.

Mr. H. DEWEY ANDERSON,

*Executive Secretary, Temporary National Economic Committee,
Washington, D. C.*

DEAR DR. ANDERSON: Thank you for bringing to my attention the memorandum of Mr. Thurman Arnold, dated March 24, commenting on Monograph No. 43, *The Motion Picture Industry—a Pattern of Control*. Merely for the sake of the record, a few comments on Mr. Arnold's criticisms appear to be in order.

Mr. Arnold states that "the decree itself is not set out in the report and it is not considered as a whole by the author of the appendix. Certain excerpts are quoted and conclusions drawn therefrom." It should be obvious that, to the contrary, the comments of the authors were based on a careful examination of the decree itself in its entirety as well as all collateral sources of information which were available. The conclusions of the authors were not based on "excerpts."

The possibility of including the entire consent decree in the monograph as an appendix was carefully considered. The idea was abandoned since it seemed inadvisable to inflict this long and legally worded document on readers who, after all, would in the main be nonlawyers. It was felt that a paraphrase of the relevant portions of the decree, fortified by direct quotations where the intricacies of legal expression permitted, would be most useful to the majority of readers.

To Mr. Arnold, as a master of both forms, this choice between the legal jargon and everyday English may have appeared unfortunate. But it must be remembered that the purpose of this appendix was to examine the bearing of the consent decree on certain matters discussed in the body of the report rather than to provide a road map through the decree itself.

As a second objection, Mr. Arnold states, "* * * the writer of the monograph apparently does not realize that the decree gives additional remedies to exhibitors of motion pictures and does not take away any of the existing remedies under the antitrust laws." I am unable to find any statement in the monograph which suggests that any remedy formerly available to exhibitors has been withdrawn under the decree. But, since the subject has been broached by Mr. Arnold, it may be pointed out that before the decree was entered, an exhibitor was free to make a complaint to the Department of Justice that unfair methods of business in violation of the antitrust laws were being used against him. He presumably could feel confident that, were his complaint well-founded, the Department would act in the matter. It is a matter of common knowledge that many complaints of this nature were adjusted by mutual agreement after it became known that the Department of Justice was investigating the matter. Is this possible avenue of relief, inexpensive at least so far as the complainant is concerned, still open to the exhibitor? One cannot, of course, anticipate the policy of the Department, but it seems likely that the complaining exhibitor in a

case involving one of the major companies would be referred back to the arbitration method of adjustment. Having created the arbitration machinery, the Department would appear to be under some obligation to encourage its use.

The purpose of Mr. Arnold's mention of the loss of foreign markets by the major companies is a little obscure. The grievous financial plight of the companies involved has not been visible to the naked eye. Nevertheless, granting a loss of foreign business, it is difficult to see the connection with a suit based solely on the domestic operations of these companies. The connection with an analysis of the consent decree itself appears still more remote.

The purpose of quoting from a public statement of the Department of Justice at the time the suit was instituted was to contrast the stated objectives of the action with the results obtained. It is possible that a quotation from the Department's statement of October 29, 1940, might assist in developing the contrast, but this, after all, is a matter of viewpoint.

The authors are gratified that only in the matter of the consent decree does Mr. Arnold find the monograph inadequate. The authors made every effort to treat the consent decree as objectively as any other subject discussed in the monograph.

Very truly yours,

W. DUANE EVANS.

LETTER FROM THE ASSOCIATION OF AMERICAN
RAILROADS CRITICIZING T.N.E.C. MONOGRAPH
NO. 26, ECONOMIC POWER AND POLITICAL
PRESSURES, BY DONALD C. BLAISDELL
AND JANE GREVERUS. ALSO
REJOINDER BY MR. BLAISDELL

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., March 13, 1941.

The Honorable JOSEPH C. O'MAHONEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR: My attention has just been called to Monograph No. 26, printed at the Government Printing Office and issued as a part of the work of the Temporary National Economic Committee, of which you are chairman. This monograph has for its title "Economic Power and Political Pressures." In the foreward to this publication, you state that the monograph was written by Donald C. Blaisdell, assisted by Jane Greverus. It is evident from your statement that the Committee assumes no responsibility for the correctness of the statements contained in these monographs and their function is clearly understood. However, a statement of this kind, issued under the auspices of the Committee, implies a certain degree of endorsement, particularly when the author is commended by the Economic Adviser of the Committee.

I have read with care what is said in this monograph beginning on page 141, under the caption "Utilities and Railroads." Candor compels me to say that I have never seen a document issued under public authority or quasi-public authority which contains so many reckless and unsupported statements. It is difficult to discuss all of these misstatements within the compass of an ordinary letter. However, as an example, I call attention to a statement on page 145, so outrageously unfair and so palpably false that I cannot refrain from calling it thus to your attention. In one paragraph on this page, Mr. Blaisdell says:

"Estimates of the amount of money spent by the A. A. R. and its numerous subsidiaries on propaganda and lobbying activities are so high as to be almost incredible, running to far over \$100,000,000 for the period since 1918."

As authority for this extraordinary statement, the author quotes the April 12, 1938, issue of LABOR, a weekly publication owned and issued by certain standard railroad labor organizations. This newspaper is frankly partisan. It is incredible, if I may use Mr. Blaisdell's word, that anyone charged with responsibility should make a statement of this kind, with no authority therefor except an article in a newspaper which is the partisan organ of particular groups. I have examined the issue of LABOR referred to and it is there stated that "carrier lobbying organizations spent over \$189,000,000 in the years since the war." This statement in LABOR has been answered repeatedly and conclusively refuted.

What foundation it has rests upon certain exhibits, known as Exhibits Nos. 3440-3443, introduced into the record of the investigation conducted pursuant to the authority of S. Res. 71 by a subcommittee of the Senate Committee on Interstate Commerce, which had to do with the financing, reorganization and consolidation of railroads. Beginning on page 10,441 of the printed record of the hearings, Part 23, will be found certain exhibits put into the record by the agents of the Senate subcommittee, containing certain information collected from railroad files. That statement indicates (page 10,442) that in the period from 1920 to 1936 the railroads spent, for all of their associated activities, \$182,367,000. The pages following 10,442 give the details of these expenditures. That statement shows that they cover the expense for 17 years of all the work done by the railroads through the medium of committees and associations. It covers a vast amount of work which the experience of the railroads indicates can more efficiently and economically be done through joint action than individually.

As an example, there is included the work done by the railroads in connection with the exchange of equipment and the repair and return thereof, including payment for the use of cars delivered to other railroads in exchange; the research work of the Association in the field of equipment and operating methods; the formulation of rules for the transportation of explosives and other dangerous articles; the work of demurrage and storage bureaus, which have to do with the making of demurrage rules and the collection of demurrage; investigation and work done for fire protection; and the work of traffic bureaus, having to do with the investigation of rates and the publication of tariffs. This work of the traffic bureaus alone covers approximately \$119,400,000, about 65.5% of the total.

I was given the privilege of making an explanation to the subcommittee with respect to these expenditures and I did so in a letter addressed to the subcommittee, bearing date of April 5, 1938, which letter was made a part of the record in the S. Res. 71 investigation. This statement was available to Mr. Blaisdell, if he had cared to make an impartial investigation of the question. In that letter, I pointed out that all of the work of the Association of American Railroads, including its expenditures for advertising, represented, in the year 1937, no more than 79/1000's of 1% of the total operating revenues of the Class I railroads of the country. I pointed out also that if you add together the total expense of the Association of Railway Executives, of the Law Department of the Association of American Railroads and the total expenditures for State Railroad Associations, you would have a figure which is no more than \$8,000,000 for the whole period covered.

It will be noted that the \$8,000,000 figure covers the entire expense of the Association of Railway Executives. This Association dealt with a great many questions which had no concern with legislation. It covers also the entire expense of the Law Department of the present Association, the Association of American Railroads. Our Law Department handles cases before the Interstate Commerce Commission and before the courts and furnishes a medium for the consideration of a great many questions other than those pertaining to legislation. The State Railroad Associations, while they do concern themselves with legislative activities in the States, perform many other functions. It may be safely asserted that the amount expended in legislative work, national and State, consisting principally of bills for printing, clerical help and postage, would be a very small part of this \$8,000,000.

This Association was not called upon by Mr. Blaisdell for any explanation and, of course, there was no testimony before your Committee on the subject.

If this monograph is typical of those issued by the agents and employees of the Committee, I say with great deference that these reports are not worthy of being received by the country as having any probative value in solving the important problems which the Committee is considering. I may say that the entire report, so far as it refers to railroads, bears evidence of hasty preparation and inadequate examination of the facts and a degree of bias which is indeed "incredible."

I may say that since this report has been made public, I feel justified in sending a copy of this letter to all the members of the Committee and in giving a copy to the press.

Very truly yours,

J. J. PELLEY.

ASSOCIATION OF AMERICAN RAILROADS,
TRANSPORTATION BUILDING,
Washington, D. C., March 17, 1941.

The Honorable JOSEPH C. O'MAHONEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Since writing my letter of March 13, which referred to Monograph No. 26, I have had an opportunity to review some of the other monographs issued under the auspices of the Temporary National Economic Committee.

In my letter of the 13th, I said in substance that if Monograph No. 26 is typical, the studies released by the Committee would not be worthy of serious consideration by the country. My only purpose is to say that I am now satisfied that this monograph is not typical and that I sincerely hope that nothing contained in my letter of the 13th will be taken as an expression of opinion that the work of the Temporary National Economic Committee is without substantial value.

Very truly yours,

J. J. PELLEY.

REJOINDER BY DONALD C. BLAISDELL TO LETTER FROM THE ASSOCIATION OF
AMERICAN RAILROADS

MARCH 20, 1941.

Dr. DEWEY ANDERSON,
Executive Secretary, Temporary National Economic Committee,
Washington, D. C.

DEAR DR. ANDERSON: In attempting to refute the statement on railroad lobbying expenditures made on p. 145 of T. N. E. C. Monograph No. 26 by throwing doubt on the authenticity of the excerpt from LABOR Mr. J. J. Pelley "protests too much." Whatever validity his arguments may possess is more than offset by

his surprising insistence that only "a very small part" of \$8,000,000 measures adequately the railroads' expenditures on legislative work, national and state, over a period of 17 years. If Mr. Pelley believes that "printing, clerical help and postage" account for the principal costs of lobbying and propaganda, in the case of railroads or of any other pressure group, he displays the same assumed naivete characterizing his statement of March 29, 1938 to Senator Burton K. Wheeler, of Montana, that he did not know what Senator Wheeler meant by "lobbyist."

Mr. Pelley bases his charge that the statement complained of is "outrageously unfair and palpably false" on the data contained in exhibits Nos. 3440-3443 printed in Part 23 of the Hearings conducted under authority of S. Res. 71 (74th Congress), on certain statements in his letter of April 5, 1938, to the Subcommittee of the Senate Interstate Commerce Committee constituted under authority of that resolution, and upon certain deductions made therefrom. These arguments are worth examination, bearing in mind that the statement objected to refers to "estimates" of expenditures for "propaganda and lobbying activities" of the A. A. R. and subsidiary organizations, that the period under consideration is 1918 to 1940, and that the terms propaganda and lobbying as used in *Economic Power and Political Pressures* include all activities carried on collectively by a citizen group other than a political party for the purpose of influencing legislative, administrative, judicial and political behavior.

According to Exhibit No. 3440 the cost to railroads of maintaining railroad associations, 1920 to 1936, amounted to \$182,367,000. How much of this was spent for lobbying and propaganda? There is no way of knowing. The breakdowns made in Exhibit No. 3441 offered by the railroads and in 3442 and 3443 prepared by the Committee's staff, while of some value, still do not provide the answer.

Certain items obviously fall within the category of propaganda, as, for example, the item in Exhibit No. 3443 of \$1,376,341 paid by the railroads to the Bureau of Public Relations, Western Railways, while others are clearly payments for lobbying, such as the \$2,406,758 made to state legislative committees and railroad associations.

At the same time other items would appear, superficially at least, to be free of suspicion that they or any part of them were made for purposes in any way related to propaganda and lobbying. This would seem to be true of items classified in Exhibit No. 3442 under the headings Operations and Maintenance Department and Traffic Department. But testimony of Mr. Pelley and of Mr. Fletcher, A. A. R. Vice president and general counsel, throw some doubt on the correctness of this conclusion. Expenditures for associations and committees under jurisdiction of the car service division in the Operations and Maintenance Department cannot be said to have been made entirely for non-propaganda and non-lobbying purposes, inasmuch as Messrs. Pelley and Fletcher testified (pp. 10147-10159) that the machinery of shippers' advisory boards also under the car service division was used by the A. A. R. to promote its legislative program. Moreover, it was brought out in the hearings that the Association's traffic department was also active in promoting legislation (pp. 10144-10147). How much or what part of these items ought to be allocated to propaganda and lobbying is not known. Nor did the Committee and the A. A. R. attempt to make such allocation. In his letter Mr. Pelley states that "work of the traffic bureaus alone covers approximately \$119,400,000," inferring that in arriving at a figure representing expenses for propaganda and lobbying activities this amount should be excluded from the total. In the light of the above facts this inference does not seem justified.

In attempting to minimize the amount of railroad lobbying and propaganda expenditures Mr. Pelley calls attention to what (to him) are apparently modest outlays for these purposes. This is familiar strategy of pressure groups, particularly when they are well-financed. To emphasize, as Mr. Pelley does, that 1937 A. A. R. expenses amounted to but 79/1000's of 1% of the total operating revenues of the Class I railroads of the country and to expect it to be accepted as a measure of the cost of lobbying and propaganda is expecting a good deal. In addition, it is misleading. Similarly, Mr. Pelley's figure of \$8,000,000 hardly gauges accurately the amount of money spent by the railroads for lobbying and propaganda. And to assert that legislative work accounts for but "a very small part of this \$8,000,000" and in so doing to imply that this tells the whole story can hardly be taken seriously.

None of these figures and data cited by Mr. Pelley include the contributions made by railroads to the Railroad Security Owners Association and to the National Association of Owners of Railroad and Public Utility Securities. Nor do they include the cost to the railroads of having their regular employees perform lobby and propaganda work under the plan of the Association of Railway Execu-

tives of organizing the states for offense and defense on all matters of legislation, state and federal, affecting railroads. They fail to embrace the cost of aiding railroad shippers in matters pertaining to state legislation, the cost of aid rendered by non-railroad organizations, such as state chambers of commerce, boards of trade and manufacturers' associations, to the A. A. R. with reference to legislative programs. They do not include railroad donations to chambers of commerce and to various other organizations nor the cost of research, legislative, and publicity work stimulated by the railroads but carried on by taxpayers and other citizen associations. They do not include railroad contributions to the Transportation Association of America. All of these are clearly propaganda and lobbying expenses and a full statement of such expenses of the Association of American Railroads and of its numerous subsidiaries would necessarily include them.

The fact is that neither the public nor the railroads know how much the railroads have spent for propaganda and lobbying. If this is so, the suspicion arises that Mr. Pelley in writing his letter and in making it public had some purpose in mind other than disputing the accuracy of a reference in a report. This suspicion is deepened by noting other parts of his letter. In the next to the last paragraph he tries to condemn the entire report, at least "so far as it refers to railroads," by charging hasty preparation, inadequate examination of the facts, and bias on the part of the author. He does this despite the fact that of the 11 pages in the report dealing with railroads he extracts but a single sentence as the basis on which to make his blanket criticism.

Even this does not indicate the sweeping nature of Mr. Pelley's charges. He tries to build up in the public mind doubt as to the value of the entire series of monographs published under T. N. E. C. auspices. The purpose of such tactics is so transparent as to deceive no one. ECONOMIC POWER AND POLITICAL PRESSURES draws attention to railroad practices in the field of pressure politics which are in flagrant contradiction to democratic ethics, subversive of representative government, and unworthy of the leaders of America's basic transportation system. To divert public attention from them the A. A. R. produces a red herring and tries to drag it across the path.

In the hands of leaders such as Mr. Pelley, receiving annual salaries of \$60,000, the sum of \$8,000,000 will buy a lot of propaganda and political pressure even over an eighteen-year period. If the real figure is closer to that mentioned in Monograph No. 26 and in LABOR, as seems likely, one can well understand why the Association of American Railroads dislikes having it called once more to public attention.

DONALD C. BLAISDELL.

LETTER FROM HARRIET ELLIOTT, CONSUMER
COMMISSIONER, THE ADVISORY COMMISSION
TO THE COUNCIL OF NATIONAL DEFENSE,
ENDORISING CERTAIN RECOMMENDA-
TIONS MADE TO THE TEMPORARY
NATIONAL ECONOMIC
COMMITTEE

18467

THE ADVISORY COMMISSION TO THE COUNCIL OF NATIONAL DEFENSE,
OFFICE OF THE CONSUMER COMMISSIONER,
Washington, D. C., March 1, 1941.

The Honorable JOSEPH C. O'MAHONEY,
Chairman, Temporary National Economic Committee,
Washington, D. C.

MY DEAR SENATOR: I have followed with great interest the testimony and proposals recently presented to your Committee, and on behalf of the Consumer Division of the National Defense Advisory Commission I should like to add my support to certain of the recommendations which were made. Because of their direct relationship to civilian welfare under the defense program, I am especially interested in the proposal to repeal the Miller-Tydings amendment to the Sherman Anti-Trust Act, and in the recommendations designed to break down certain types of barriers to interstate commerce and conspiracies to raise the cost of goods purchased by the Government.

Repeal of the Miller-Tydings Act as proposed by the Department of Justice would restore the effectiveness of the anti-trust laws in dealing with certain types of price fixing activities which the law now permits. The memorandum for the Assistant Attorney General dated February 10, 1941,¹ setting forth the grounds for repeal of this Act, appears to me sound, and I strongly urge that this recommendation be followed.

I favor also the proposal of the Department of Justice that Congress² should enact a statute authorizing the Federal Trade Commission to make findings of fact as to whether a designated local ordinance or state statute interferes with interstate commerce, and providing that such findings shall be accepted as prima facie evidence in actions in the Federal courts to enjoin the enforcement of any such statute or ordinance.

The proposal of the Department of Commerce to³ establish a joint Federal-state committee for the purpose of considering trade barrier problems involving Federal-state relations would supplement the preceding recommendation and appears to me meritorious. There are certain types of state statutes which have a restrictive effect upon interstate commerce and may bring unnecessary price increases in this period of emergency. Their modification is essential to a fuller production and flow of commodities vital to civilian welfare and national defense.

It has also been proposed before your Committee⁴ that a statute be enacted enabling the Government to proceed against conspiracies designed directly or indirectly to raise the cost of goods and services purchased by the Federal Government, the effect of which would be to permit the use of the anti-trust laws in cases of national importance not involving interstate commerce. I believe such a law is necessary in dealing with emergency situations which are likely to arise under the defense program.

I urge that the Temporary National Economic Committee approve these recommendations with a view to their early enactment by the Congress into law.

Sincerely yours,

HARRIET ELLIOTT,
Consumer Commissioner.

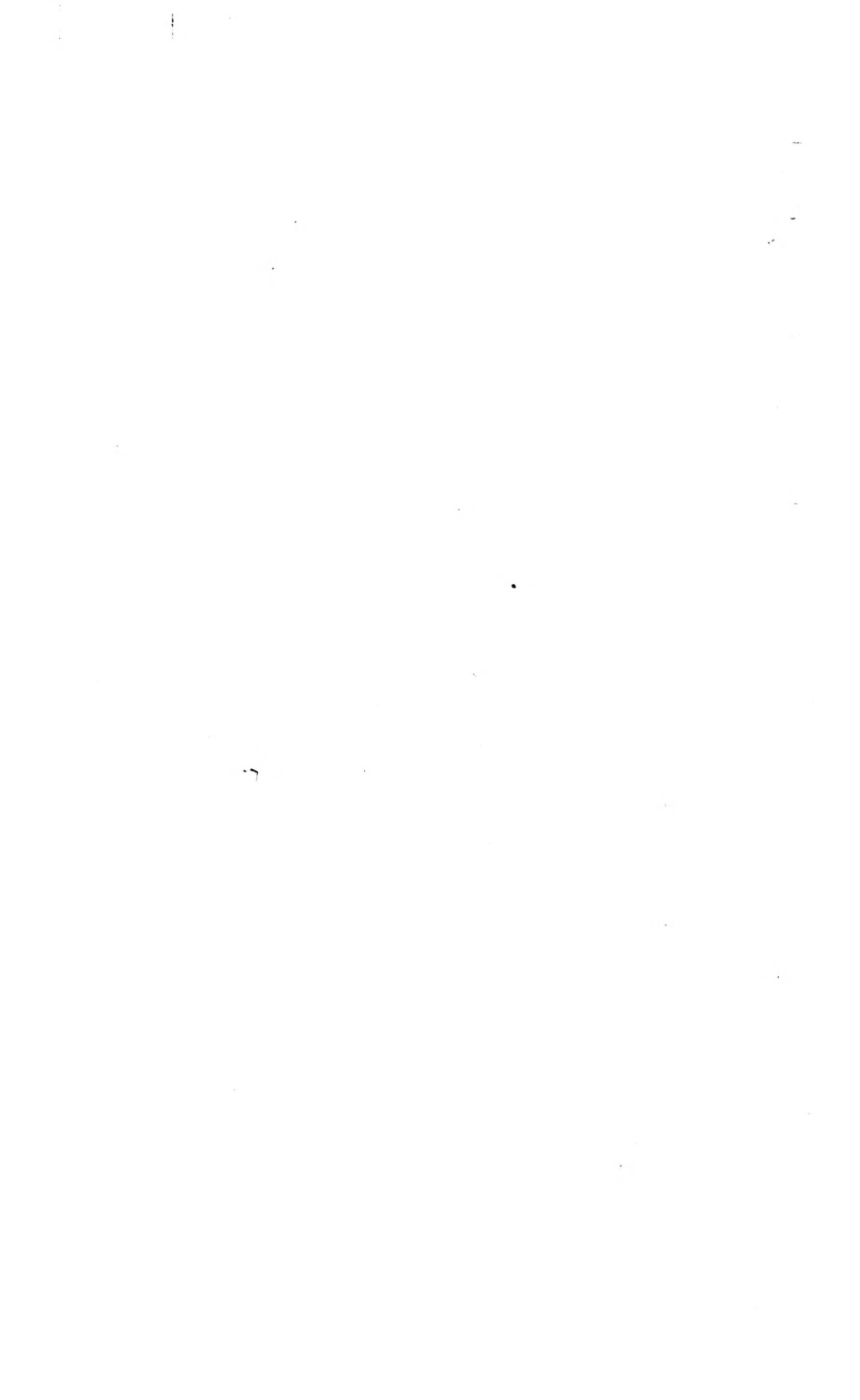
¹ Final Report and Recommendations of the Temporary National Economic Committee, S. Doc. 35, 77th Cong., 1st sess., Exhibit No. 2793, p. 232.

² Ibid., Exhibit No. 2797, p. 261.

³ Ibid., Exhibit No. 2805, p. 353.

⁴ Ibid., Exhibit No. 2797, p. 261.

LETTER FROM CONWAY P. COE, COMMISSIONER,
UNITED STATES PATENT OFFICE, COMMENT-
ING ON THE RECOMMENDATIONS ON
PATENTS SUBMITTED TO THE T. N. E. C.
BY THURMAN ARNOLD, ASSISTANT
ATTORNEY GENERAL, UNITED
STATES DEPARTMENT
OF JUSTICE; ALSO
REJOINDER BY
MR. ARNOLD



DEPARTMENT OF COMMERCE,
UNITED STATES PATENT OFFICE,
Washington, March 7, 1941.

Honorable JOSEPH C. O'MAHONEY,
Chairman, Temporary National Economic Committee,
Apex Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to the letter of the Executive Secretary, dated February 19, 1941, requesting me to submit to your Committee "a detailed analysis and criticism" of the recommendations proposed by the Department of Justice.¹

On the occasion of my appearance before your Committee on February 19, 1941,² I stated that it would be much easier to comment on the merits of these proposals if I had a clear conception of the particular objectives sought by their adoption.

The explanation accompanying the proposals is so extremely meagre, and so far as I know has never been amplified on the record, that without further enlightenment in this direction, I must assume that the proposals are intended generally to eliminate certain abuses in the use of patents which have been detected by the Department of Justice in its anti-trust investigation and which are revealed by the evidence submitted by that Department before your Committee.

While I concede without argument that evidence presented to your Committee shows the existence of some practices which are contrary to the public welfare, no one has attempted to show whether these practices were due primarily to particular corporate relationships, policies and agreements, or whether they arose because of the existence of patents. It is important to clarify this point because it will indicate, first, whether there is need of legislation of the scope contemplated by these proposals, and second, whether, if such legislation were enacted, the situation would be corrected. Thus, it would be pertinent to inquire whether the particular practices against which dissatisfaction is expressed have or could have existed in a corporation because of policies and practices in no way related to or affected by the ownership of patents. I should have supposed that in part at least the complaint against the old Standard Oil Trust arose from practices which controlled prices, geographical area of production and distribution, and restrictions on the fields of activities; and apparently that situation obtained in the complete absence of patent control.

The ability to exercise general control, or to specifically control prices, production, etc., flows from many factors other than the authority conferred by patent ownership. For example, a company having control of the source of raw materials may impose all of the restrictions regarded as undesirable without ownership of a single patent on the raw material itself, or the process of fabrication, or any product thereof.

The control of price, production, geographical area of distribution and field of use which may now reside or which may have resided in many monopolistic situations can be due to many other factors besides patents.

I feel that I am justified in concluding from the nature of the questions directed at me by members of the Committee that in their opinion the need for these proposals is demonstrated by the evidence afforded in connection with the Hartford-Empire Company.

An anti-trust suit is now pending against that company. The existence of such a suit raises a very interesting question having a direct bearing on a decision as to the need for the changes contemplated by the proposals under consideration or other changes. If the indictment against the Hartford-Empire Company was obtained on the basis of the evidence presented to the Committee, the logical conclusion would seem to be that the present laws are entirely adequate to handle the practices objected to; if, on the other hand, considerations and evidence in addition to that presented to your Committee were required to secure the indictment, it is certainly open to question as to whether the grounds of complaint do not arise from considerations other than the ownership and use of patents.

¹ See Final Report and Recommendations of the Temporary National Economic Committee, S. Doc. 35, 77th Cong., 1st sess., Exhibit No. 2794, p. 249.

² Ibid, p. 357.

If the practices which these proposals seek to remedy are due to the existence of controls set up as a result of contractual relationships between two or more corporations, it should be determined if the control which is alleged to be contrary to the public policy is not predicated broadly upon contractual relationship rather than on patent ownership. If the objectionable control is predicated on contracts broadly, then the anti-trust laws should, if necessary, be broadened to correct such practices by corporations who do not rely on patents as well as those who do use patents for improper purposes.

Even though one be motivated by an intense desire to correct and eliminate practices and abuses against the public welfare, it is nevertheless essential to determine the reason for and source of the abuse before a corrective can be suggested. I am confident the Committee will agree that any solution of the problem should seek to eliminate the abuses without the punishment of the thing abused.

I am firmly of the opinion that because of their breadth, these proposals of the Department of Justice go much further than the eradication of any demonstrated abuses, and indeed they are so broad as to inevitably include the imposition of restrictions and penalties upon perfectly proper and desirable practices. In other words, even conceding that the evidence before your Committee demonstrated that the four restrictions unconditionally outlawed by the proposals under consideration have constituted or might constitute an abuse of the patent monopoly to the detriment of the public welfare, nevertheless the proposals are not restricted to situations which could be identified as contrary to the public interest.

To unconditionally outlaw these restrictions will preclude their use no matter how clearly it may be demonstrated that they are definitely in the public interest or even essential to National Defense. That licenses with such restrictions may be to the benefit of the public is illustrated by many situations which can be shown and which are referred to in the course of this discussion.

The main provision of the proposals is contained in Recommendation No. 1, which makes it unlawful to include in any license under a patent any condition or qualification restricting quantity, price, geographical area, or use. According to the language of the proposal, "Restrictions in respect of price, production, use or geographical areas would be unconditionally outlawed."

Obviously, the adoption of these proposals would have important and widespread effect upon business development and the commercialization of inventions. Therefore they demand serious consideration and, in my judgment, more of an opportunity than has thus far been afforded to the American public and the general users of patents to express their views. The proposals seem to be predicated solely on evidence of abuse by certain persons to whom the abuse is attributed. The evidence is not sufficiently representative to justify generalizations as to patent practices.

I believe that the proposals go much further than has been demonstrated as necessary—indeed, much further than is actually necessary.

It should be noted that the enumerated restrictions are outlawed and inflexibly banned under any and all circumstances, including situations in which the granting of restricted licenses could be demonstrated as being wholly in the public interest, as well as situations in which the granting of restricted licenses would be of no interest to anyone but the parties involved in the contract. The intent is not merely to condemn the restrictions when their effect would be contrary to the public interest, but to outlaw them in every case, good, bad and indifferent.

A further objection lies in the great divergence in the two alternatives given the owner of a patent. The patent owner can refuse to grant licenses to anyone, but if he grants a license, the license must be general and unrestricted. These two alternatives are so disparate that the effect would be the discouragement of licensing and the restriction of development, rather than the promotion of science and the useful arts.

The proposal confronts the patentee with a dilemma. Either he must refuse to grant a license or else he must grant an unrestricted license which may put him out of business. Either alternative available to the patentee would frequently place him in a position where he could not best serve the public welfare. If he accepts the first alternative, namely, refuses to grant any license, the invention may be made available to the public only in a limited field and in accordance with the patentee's own facilities of production which may well be entirely inadequate to supply the public demand. On the other hand, if he is empowered to grant only general licenses he may not be able to negotiate any licenses at all because a general license would be unattractive to many otherwise willing licensees, or he would be unwilling to grant a general license since he would thereby jeopardize his own business.

The proposals recognize no distinction between a situation where the patent owner is himself engaged in a business enterprise which he must protect and one in which the patentee himself is not in any manufacturing business employing patents. In the first case the patentee cannot safely grant a general license because it might place him in direct competition with larger and more resourceful corporations; his primary use of the patent is to protect his established business rather than as an instrumentality for obtaining royalties. It is imperative to recognize the differences between these two situations, and regardless of other effects the proposals might have, the general tendency would be to place a small business or individual at a disadvantage. The beneficial effect, if any, would be to the large corporations whose productive capacity, resources, facilities for marketing, etc., would enable them to operate under a general license in direct competition with the business of the small patent owner and perhaps drive him from the field. It follows, therefore, that the proposals would discourage the granting of licenses altogether and thereby restrict the manufacture and distribution of the patented invention to the public.

Any legislation that tended to restrict or prevent the granting of licenses would not materially injure the large corporation or the large aggregate of capital, because the refusal to grant licenses would bring no injury to themselves. The small business which utilizes its patents primarily to protect its investment and lacks the ability or intent to use the invention to its fullest extent in all fields, can gain a substantial revenue by licensing in those fields in which it is not operating. If this is prevented by these proposals the public will thereby lose the benefit of the invention in such other fields, and the patentee will be deprived of his revenue.

The proposals outlawing qualified licenses distinctly jeopardize the rights of individual inventors, particularly inventor-employees. Their adoption would prevent the employer from accepting a shop right or a license in his own industry or plant, while permitting the inventor to retain the right to profit from the development of the invention in other industries. In these days when so much criticism is directed against the absorption of rights of the inventor by corporations, it should be noted that these proposals would prevent a willing employer from permitting an inventor to profit from the use of the invention in fields other than that engaged in by the employer.

A license under a patent, even when it contains conditions or qualifications, is inherently not in restraint of trade, but just the opposite. By the patent, the government grants to the patentee an exclusive right; only he can make, use, or sell the particular invention covered by the patent. A license by the patentee is a yielding of exclusive rights existing in the patentee. Before a license is granted, other persons are prohibited from dealing with the invention. With a license, they are free to deal with the invention to the extent of the license.

The Supreme Court has recognized that a restrictive license is not inherently bad but on the contrary under some conditions may be regarded as "reasonably within the reward which the patentee by the grant of a patent is entitled to secure". Thus in the case of the *United States vs. General Electric Company*, 272 U. S. 476, speaking through Chief Justice Taft, the Court held:

"When the patentee licenses another to make and vend and retains the right to continue to make and vend on his own account, the price at which his licensee will sell will necessarily affect the price at which he can sell his own patented goods. It would seem entirely reasonable that he should say to the licensee, 'Yes, you may make and sell articles under my patent but not so as to destroy the profit that I wish to obtain by making and selling them myself.' He does not thereby sell outright to the licensee the articles the latter may make and sell, or vest absolute ownership in them, he restricts the property and interest the licensee has in the goods he makes and proposes to sell."

In the above case the Court had under consideration the propriety of a restriction in price in a license.

In another case, *General Talking Pictures vs. Western Electric Co.*, 305 U. S. 124, the Supreme Court recognized that a qualification in a license as to the field of use is likewise not inherently bad and not necessarily an abuse of the patent monopoly.

The proposals under consideration would arbitrarily outlaw and condemn such qualified licenses even under circumstances which have been held not to constitute an abuse of the patent monopoly and not detrimental to the public welfare.

The Committee should recall that it is established law that a patentee has no immunity from the provisions of the anti-trust laws or any other statutes of this country; he is not now, and has not been, able to utilize a patent or a license under

a patent as an instrument for illegal purposes. The Supreme Court has repeatedly recognized this principle. For example, it stated in *Standard Sanitary Mfg. Co. vs. U. S.*, 226 U. S. 20, that:

"Rights conferred by patents are indeed very definite and extensive, but they do not give any more than other rights an universal license against positive prohibitions. The Sherman law is a limitation of rights, rights which may be pushed to evil consequences and therefore restrained."

The principle was reaffirmed by the Supreme Court in the case of *United Shoe Machinery v. U. S.*, 258 U. S. 451, where the Court stated:

"Undoubtedly the patentee has the right to grant the use of the rights or privileges conferred by his patent to others by making licenses and agreements with them which are not in themselves unlawful, but * * * the patent right confers no privilege to make contracts in themselves illegal, and certainly not to make those directly violative of valid statutes of the United States."

On the occasion of my appearance before the Committee on February 19, 1941, the Chairman of the Committee appeared to emphasize the denial of a license by the Hartford-Empire Company to a man who sought a license in the State of Texas. Without analyzing in detail the testimony of this particular witness and the equities of his complaint, I want to point out that the present proposals would in no way change or remedy that particular situation. The complaint of the witness, referred to by the Chairman, appeared to be that the witness was unable to secure a license under the patents owned or controlled by the Hartford-Empire Company. I am not able to see how the unconditional outlawing of licenses with the restrictions mentioned would in any manner contribute to the relief of this witness. The abolition of qualified licenses certainly would not make it easier for any one to obtain a license.

A further difficulty that I find with these proposals is that they assume in the absence of evidence that the restrictions referred to are invariably and inherently evil. This assumption ignores the decisions and observations by the Supreme Court as to the reasonableness of certain of these restrictions under certain circumstances. Since no evidence was received by, or offered to, the Committee as to the beneficial results which would flow from qualified licenses under certain conditions, I feel that the Committee should not recommend the adoption of proposals which go further than the correction of demonstrated abuses.

RECOMMENDATION NO. 1

The above observations apply more or less generally to several of the proposals. I shall now specifically analyze the proposals individually.

The text of Recommendation No. 1 is as follows:

"1. It should be made unlawful for any person to sell or assign a patent, or to grant any right or license under a patent, on any condition which restricts the assignee or grantee in respect of the amount of any article which he may produce under the patent, the price at which he may sell any such article, the purpose for which or manner in which he may use the patent or any article produced thereunder, or the geographical area within which he may produce or sell such article. The foregoing prohibitions should be supplemented by a further prohibition against any other restriction embodied in a condition to any such assignment or license, which would tend substantially to lessen competition or to create a monopoly, unless such restriction is necessary to promote the progress of science and useful arts. These prohibitions, however, should not apply to any assignment of a patent or any grant of a license under a patent for use exclusively outside the United States and its territories and possessions.

"In short, the owner of a patent would enjoy the full patent monopoly if he elected to retain the exclusive privilege of producing or selling under the patent himself. He would be free to assign the patent; to grant an exclusive license; and to grant licenses to anyone he pleased. But if he grants a license, the license must be general and unrestricted, unless he is prepared to demonstrate that a particular restriction (other than restrictions in respect of price, production, use of geographical area) is necessary to promote science and useful arts. Restrictions in respect of price, production, use, or geographical areas would be unconditionally outlawed."

This proposal unconditionally outlaws restrictions in license agreements in respect of price, production, use or geographical area and thus prohibits licenses qualified in these respects. As previously indicated in the general discussion, and conceding that such restrictions may sometimes be a factor contributing to an

abuse of a patent privilege, nevertheless it is equally clear that such restrictions may in other and more numerous cases be not only compatible with the general welfare, but conducive to its advancement.

The disadvantages to the individual inventor and the small business concerns have already been discussed. In addition, these restrictions will, in many worthy and proper instances, impede, if not wholly obstruct, the commercialization of inventions on a scale required to meet the public demand. It should not be overlooked that these restrictions in many cases are imposed in the license not because of the desire of the patentee to maintain control but due to the insistence of the licensee for his protection in a new venture. The commercialization of inventions, as is well understood, frequently demands the employment of speculative capital and such capital demands a reasonable protection. It is not an unreasonable requirement on the part of the licensee that he be protected against competition in the territory in which his own factory is located, especially where the inauguration of the enterprise has required a substantial investment. A corporation of substantial magnitude, capable of developing the entire markets of the country and in a position to utilize fully the exclusive privilege of a patent, would not grant licenses if the proposals were in effect. The small corporation, the individual inventor starting out to exploit his invention, the small business man, may be incapable of using, because of financial limitations, the exclusive privilege in its entirety. The present proposals confront him with the difficulty that he either must deprive himself of the opportunity to profit from that part of the exclusive field which he does not develop or use or else open the door wide to unrestricted competition by unlimited licenses. The public is thus denied the opportunity to obtain the invention through other sources, in other fields, and in other areas.

Regardless of arguments for or against outlawing these license restrictions, it is indisputable that one most unfortunate effect would be to increase litigation both in the courts and in interference proceedings in the Patent Office. An interference proceeding in the Patent Office is for the purpose of determining priority between two or more claimants for a patent. It frequently happens that such claimants are engaged in businesses in entirely different fields. Therefore it is possible to settle the litigation by agreements which protect the businesses of the parties by geographical, use or other restrictions. This is done in numerous cases. The same remarks apply to settlement of infringement cases before the courts. The denial of the general right to grant qualified licenses, therefore, would inevitably prevent amicable and satisfactory settlements, and would force litigants to fight to the bitter end. This would often deprive the public of the use of the invention in the field in which it is being used at the time of the litigation. In many cases one party to the litigation is perfectly willing to settle on the basis that he be permitted to continue his own business.

Licenses Qualified by Restrictions on Use

The granting of licenses containing restrictions as to use is usually well within the public interest, particularly with respect to inventions which have applications in different fields.

As an example, there may be mentioned the case of an inventor who developed a particular type of internal combustion engine after a great deal of experimental and development work. His company further developed the invention for use in stationary internal combustion engines which was their particular field. As soon as the interested public became aware of the value of the invention, a motor car company applied for and obtained a license to manufacture engines under the patent, the license being confined to automobile engines. A motorcycle company then applied for and obtained a license in the field of motorcycle engines. Another company, builders of marine motors, applied for and secured a license for using the invention in the marine motor field; many other special fields were developed and numerous separate licenses in those fields were granted. If nothing but a general license could have been issued by the original inventor and his company these various fields of use might have had to wait until the expiration of the patent before the benefits of the invention could be fully utilized, because the company would have been unwilling to have others enter its specific field in which it was manufacturing under the patent.

Illustrations like this can be multiplied indefinitely. There is no valid reason why, if a patented invention is susceptible of use in various fields, the patent owner should be prohibited generally from granting restricted licenses to allow others to practice the invention in these different fields.

The Supreme Court has considered licenses of this character and stated, through Justice Brandeis, in the *General Talking Pictures case*, that they are "reasonably within the reward which the patentee by the grant of the patent is entitled to secure." 305 U. S. 124; 127.

Geographical area

Limitations of this character may be likewise within the public interest. Consider the case of a small manufacturer, located in the East, who is making some article under a patent which he owns. Due to his small size and capacity or some other factor, he supplies only a local market. He would be perfectly willing to grant a license to some other manufacturer located elsewhere if he could be assured that this other manufacturer would stay in his own locality. However, under the proposal he could not grant a license with a restriction as to area. Faced with only two alternatives, of either granting an unrestricted license or of granting no license at all, the tendency would be not to grant any license.

Again, no valid reason is seen why, when a patent is not or can not be used on a national scale by one owner, he should be prohibited generally from granting restricted licenses to allow others to practice the invention in other areas.

The practical observations made by the Supreme Court in the case of the *United States vs. General Electric Company* in its consideration of the legality of license restrictions pertaining to price are equally applicable, and for the same reasons to geographical restrictions. Since the patentee who licenses another to make and vend, but who "retains the right to continue to make and vend on his own account", is entitled, as the Court stated, to prevent the licensee from destroying the profit which the patentee has a right to expect from his own endeavor, he should not be denied the protection which comes from geographical restrictions.

Price

That price restrictions in licenses may be both desirable and necessary was indicated by the testimony of Dr. Vannevar Bush, President of the Carnegie Institution of Washington, and now Chairman of the National Defense Research Committee. He stated:

"It is a part, of course, of the situation that I just mentioned, where the introduction of an invention requires a large initial investment. The funds for that can be secured only if there will be a speculative profit; only if the individual who puts up the money can expect that if the gamble is successful he will reap considerable profits. Now that procedure of putting the thing into use can occur either by the new company itself manufacturing or licensing for manufacture. If it licenses a single company for manufacture, it can give an exclusive license and collect a royalty. However, suppose that it licenses two companies. In order that there shall be at the outset a complete control, it is necessary that price restriction also be superimposed, otherwise, competition will be produced between those units and the speculative profit which is necessary will not occur. The inclusive feature is necessary in order, in many cases, to bring the device into use, and there are circumstances, therefore, where price control is necessary in order to preserve the exclusive feature." (Hearings, Part 3, page 891.)

That such licenses may be reasonable was also recognized by the Supreme Court in the *General Electric case*.

The price restriction referred to here is the initial sale price by the manufacturer, and not the resale price to the consumer.

Production

Licenses containing restrictions relating to quantity or production are likewise not invariably contrary to the public interest. Numerous instances arise when a prospective licensee wishes only one or a small quantity of a machine or article for his own use or consumption and the patentee is willing to grant a license limited to the quantity desired, but would have no reason or inducement for granting a general license.

Other Conditions in Licenses

The four types of conditions which have been discussed above are unconditionally outlawed. In addition to this, the proposal further provides that any other restriction or condition in a license "which would tend substantially to lessen competition or create a monopoly" should be prohibited unless the patentee

"is prepared to demonstrate that a particular restriction is necessary to promote science and the useful arts."

With respect to the latter part of this proposal, at least two points deserve consideration. The first is that the patentee is presumed guilty with respect to these other restrictions, and is required to demonstrate his innocence. Even in our criminal law an accused person is presumed innocent until his guilt is demonstrated.

The second is the nature of the proposed test, i. e., that "a particular restriction is necessary to promote science and the useful arts". The purpose and policy expressed in the Constitution for the *granting* of patents is the promotion of progress and the useful arts. With respect to dealings in patents, the manner in which patents are used, the Supreme Court of the United States, in determining the validity of conditions in licenses, applies the test that the condition must be "reasonably within the reward which the patentee by the grant of the patent is entitled to secure" This test appears to be a fair one.

Conditions in Assignments

Recommendation No. 1 applies all the prohibitions and restrictions to assignments containing the enumerated qualifications. In part this inclusion of assignments appears to serve only the purpose of making the recommendation appear more general. Conditions with respect to use, quantity, and price seldom, if ever, appear in assignments since an assignment is a sale or transfer of the patent itself. Conditions appearing therein may have the effect of changing the assignment to a license. The Supreme Court has pointed out that any purported assignment which falls short of a transfer of the entire and unqualified exclusive right granted by the patent is a mere license (*Pope Mfg. Co. v. Gormully*, 144 U. S. 248; 250).

However, an assignment of a patent, restricted to a particular geographical area, can be made, and such assignment is called a grant. It was early recognized that assignments by area may be in the public interest and specific authorization was placed in the law. The present statute (U. S. Code, title 35, sec. 47) provides that a patentee may "grant and convey an exclusive right under his patent to . . . any specified part of the United States." In this connection the Supreme Court has several times ruled that the sale of articles made under the patent by a territorial assignee carries the right to use the articles anywhere. In other words, a patent confers no right to restrict the place of use of articles sold under the patent.

RECOMMENDATION NO. 2

The second recommendation of the Department of Justice reads as follows: "2. It should be made unlawful for any person to whom a patent had been issued or who has in any other way acquired any patent or any interest in or right or license under a patent, to sell, lease, or otherwise dispose of any article produced or sold under such patent or any such right or license on any restrictive condition of the kind described in paragraph 1."

In so far as this proposal is intended to be supplementary or ancillary to Recommendation No. 1, the same criticisms pointed out in connection with the first proposal apply here. However, this paragraph does not deal with the assignment of patents, or with licenses under patents, but with the sale or lease of articles, which is a wholly different matter.

This second recommendation applies the provisions of the first recommendation to the sale or lease of patented articles. It is made unlawful to sell, lease, or otherwise dispose of any article produced or sold under a patent on any condition of the kind described in the first proposal.

The general observation that the suggestions are much broader than is necessary to correct abuses is re-emphasized by this proposal. Consider the following simple transactions which would be made illegal. If this prohibition becomes law, it would make illegal the sale of a machine with the condition that the machine must not be removed from a given locality until it is paid for. The proposal would even restrain a patentee from stipulating, in the lease of a machine or product, that the article leased shall not be used for illegal purposes. I do not think that anyone can seriously contend that it is necessary to abolish the right to impose such conditions on any ground of public welfare.

Apparently the proposal would have the effect of outlawing some dealings in connection with patented articles, while the identical practices with respect to unpatented articles would be sanctioned. Two articles having the same purpose

and functions, one of which falls within the scope of a patent, and the other does not, would be accorded entirely different treatments and privileges in law. Even the identical article, in one case made with a patented machine or process, and in another case not, would be accorded different rights. In other words, the creator of a new invention is placed under a handicap by the denial of privileges afforded to one who has not made any contribution to the advancement of science and the useful arts. It may be pointed out that the Clayton Act as it applies to dealings in articles, such as sales and leases, makes no discrimination either in favor of or against patented articles.

As drafted, the recommendation fails to take existing law into consideration, since it makes proposals which are already in effect. For example, the recommendation proposes that it should be unlawful for a patentee to sell an article with restrictions in respect of price at which it may be sold by the purchaser. It is now the law, and has been for a good many years, that a patentee cannot use the patent to impose restrictions as to the price at which articles are to be sold by those who purchase such articles from him. This has been decided in numerous decisions of the Supreme Court and other courts.

RECOMMENDATION NO. 3

The third recommendation of the Department of Justice reads as follows:

"3. It should be made mandatory for any sale, assignment, or other disposition of any patent or of any interest in or right or license under a patent to be evidenced by an instrument in writing. Similarly, any condition, agreement, or understanding relating to any sale or other disposition of any article produced or sold under a patent by a person to whom such patent has been issued or who has in any other way acquired such patent or any interest in or right or license thereunder, should be required to be evidenced by an instrument in writing. The seller or assignor in such case would be required to file a copy of such written instrument with the Federal Trade Commission within 30 days after execution. A register of these copies should be kept by the Federal Trade Commission, and both the register and the copies should be held available for inspection by the Attorney General, the Commissioner of Patents, or any officer designated by either."

The first sentence proposed that all assignments of patents and interests therein, and all licenses under patents, must be in writing. According to the third sentence copies of the licenses must be filed with the Federal Trade Commission.

This recommendation will be considered first as it relates to the assignment of patents and interests therein.

It should be noted that the present law provides that such assignments must be in writing. Section 47 of the United States Code, Title 35 (R. S. Sec. 4898) begins:

"Every patent or any interest therein shall be assignable in law by an instrument in writing . . ."

and such a provision has been in the law for over one hundred years. Consequently there is no necessity for a new law requiring assignments to be in writing.

There has also been a provision in the law, continuously since 1793, for the recording of assignments. The present law, in the same section quoted in the preceding paragraph, reads:

"An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof or prior to such subsequent purchase or mortgage."

The recommendation proposes that assignments must be filed with the Federal Trade Commission. No advantage or reason has been suggested to justify the future recording of assignments with the Federal Trade Commission rather than in the Patent Office. Moreover it seems obvious that the recording of licenses should be done in the same place and by the same agency. It is therefore recommended that if such an amendment is to be made in the law, the Patent Office should be designated as the repository for licenses.

I shall now develop some very practical difficulties in complying with the requirement. First, the proposal demands that all licenses shall be in writing—a requirement impossible of performance.

A large proportion of licenses under patents arise not from agreements between parties, but by conduct of the parties or by operation of law or even by lapse of time. A party who fails to seasonably file an infringement suit against a known infringer may find himself an involuntary licensor. How can such a license be reduced to writing, and if so who is to do the writing? The man who is not sued or the owner of the patent? How can a license created by operation of law, such

as by estoppel or conduct of the parties, be reduced to writing, and, if so, who is to do the writing? Every purchaser of a patented article has a license from the patentee to use, sell and repair. The proposal is so broad as to demand the recording of all such licenses because it permits of no exceptions. Licenses are frequently acquired under the doctrine of intervening rights. A shop right is also a form of license. Is it intended to require that shop rights in employers (including the United States Government) be reduced to writing and recorded?

The second sentence of the recommendation under discussion does not relate to assignments or licenses, but to the sale of articles. It is proposed that "*any condition, agreement, or understanding relating to any sale or other disposition of an article produced or sold under a patent . . .*" must be in writing, and, by the following sentence, a copy of the writing must be filed with the Federal Trade Commission. It would be necessary to record all transactions where: (1) the purchased article is to be delivered before a certain date; (2) the article is to be shipped by express; (3) the article is to be paid for in thirty days; (4) the article is to be paid for in specified installments; (5) the article is to meet certain minimum standards of quality. In fact, the imposition of almost any condition common to ordinary business practices would demand a recording with a governmental agency.

Even the recording of licenses either now written or susceptible of being reduced to writing would involve a mass of documents only a small portion of which could conceivably be of any usefulness or interest to the agencies of government.

Recognizing, however, that there are some licenses which should be recorded and thus made available for government inspection, I suggest that consideration be given to the desirability of a law requiring that licenses of the following character be reduced to writing and recorded in the United States Patent Office:

1. Licenses to which a citizen or corporation of a country foreign to the United States is a party.

2. Licenses capable of reduction to writing between citizens or residents of the United States which contain restrictions on production, price, geographical area, and field of use.

RECOMMENDATION NO. 4

Recommendation No. 4 reads as follows:

"4. No action based upon a charge of infringement of any patent, whether for damages, for an injunction, or for any other relief, should be permitted against any licensee under a patent or against any purchaser or lessee of any article unless either (a) the plaintiff has previously prosecuted to the successful judgment an action against the grantor of the license or the seller or lessor of the article, as the case may be, for infringement arising out of or in connection with the granting of such license or the sale or lease of such article; or (b) jurisdiction over the grantor, seller, or lessor cannot be obtained in any court of the United States.

"A provision to the foregoing effect would help meet one of the most serious abuses in the patent field: The use of litigation as a deliberate weapon of business aggression, rather than as an instrument for adjudicating honest disputes."

In part, at least, this proposal is unintelligible when considered in the light of the nature of a patent and the rights conferred thereby. Taken at face value, it assumes the existence of a non-existing right. The proposal contemplates a suit for infringement against the grantor of a license who is not infringing because he is neither making, using nor selling a patented article. Assuming that the purpose of the proposal is to force patentees to bring suit against a manufacturer and prohibit suit against possessors of the infringing article, except as specified in the proposal, the following observations are pertinent and worthy of consideration:

The requirement would be especially burdensome to individual patent owners and small businesses. A patent owner living in Washington having available in Washington a seller of an infringing article might be forced to go to California to bring suit against the manufacturer, carrying with him all his witnesses, records and exhibits. In another case, it may require a patentee to bring a multiplicity of suits against different manufacturers located in different parts of the United States, whereas one suit brought against a seller might reach the same end. For example, a seller of pencils might carry a dozen different brands made by a dozen different manufacturers throughout the United States and all of these brands be an infringement of one patent. Here, a dozen suits would be required against the manufacturers, whereas a single suit against the seller would conclude the litigation.

While I am most sympathetic with the declared purpose of this proposal, namely, the prevention of the use of litigation "as a deliberate weapon of business aggression rather than as an instrument for adjudicating honest disputes," I do not believe that the proposal even approaches the objective stated. I must confess my own inability, in spite of a desire to be helpful, to suggest an alternate method of accomplishing the objective for the reason that I do not know how to determine, prior to the institution of suit, the "honest" intention of the parties. I would hesitate to rely upon the results of the litigation as an indication of honest intentions, because even a losing litigant is frequently wholly sincere. I heartily concur in the desirability of outlawing suits filed for the purpose of harassment or intimidation, whether based on patents or not, but I do not know the answer to the problem. Furthermore, the problem is not peculiar to patent litigation. It would be equally desirable to outlaw dishonest suits whether they were filed in the field of patent law or any other law.

RECOMMENDATION NO. 5

Recommendation No. 5 reads as follows:

"5. If any person who owns a patent or an interest in or exclusive right under a patent, violates any of the prohibitions described in paragraphs 1 and 2 above, he should forfeit his patent or his interest in or right under a patent to the United States, and such forfeiture should be recoverable in a civil action against such person by the United States. It should be provided that, upon a proper showing in such an action, a judgment should be entered requiring the defendant to assign his patent, or interest in, or right under a patent, to the United States, such assignment to be received by the Secretary of the Treasury in the name of the United States. Thereafter, the patent or patent right would be offered for sale under the direction of the Secretary of the Treasury in the manner prescribed by law.

"A provision to the foregoing effect would adapt to the patent situation a familiar principle of law: That the abuse of a privilege granted by the State—e. g., public-utility franchises, licenses to sell securities, etc.—should result in forfeiture of that privilege. In this case, it seems wise to provide that the patent should be seized and resold, and so kept alive for useful exploitation, rather than to provide for its cancellation."

This proposal provides that anyone who violates the prohibitions as specified in Recommendations 1 and 2 shall forfeit his patent, or interest in a patent, or right under a patent. The forfeiture is to the United States, which would thereafter sell the patent or right "in the manner prescribed by law."

The extreme severity of the penalty is immediately apparent. It is all out of proportion to the alleged wrong. As pointed out in the preceding discussion, the first two recommendations are very general and cover numerous situations, small and large, and the penalty for violation in each instance is forfeiture or confiscation of the patent. The penalty applies to innocent violators, as well as to willful violators, and also applies to situations where the violation of the prohibitions would be of no material consequence.

The granting of licenses, even those clearly in the public interest, would be greatly discouraged. Patent owners would hesitate to grant any license, even those with acceptable conditions, first, because the rights of the patentee are sharply curtailed by the proposals, and second, because the penalty, if the license should be found to be in violation of the law, is so severe that no amount of royalty or other payment for a license would justify the risk taken by the licensor.

A valuable business built up on a patented invention might be wholly destroyed by the seizure of the patents for some small violation of the proposed prohibitions.

Where a patent is of outstanding value and usefulness, sale by the Government following forfeiture would inevitably add to the holdings of some large corporations, since obviously the former owner, if an individual or a small business concern, could not bid successfully against a large organization. This shift in the ownership of the patent to a large corporation would enable the new owner to drive the former owner from his field of activity.

Furthermore, there would be an unavoidable lapse of time between the transfer of the patent to the United States and the resale of the patent, during which period presumably no one would be authorized to operate under the patent.

Of equal importance is the fact that the penalty, severe as it is, does not correct the alleged evil. The outstanding license would not be cancelled by either seizure or resale of the patent and, therefore, would continue with all its undesirable restrictions. *Query*, would the new purchaser be excused from being the owner of a patent under which a license existed which was originally so objectionable as to result in seizure? What would be the position of the licensee

while all this is going on? On whose hand shall the guilt be placed, the licensor or the licensee, since each would presumably be charged with the knowledge of the law against license restrictions? The answer is important, since the penalty apparently applies only to the patent owner, whereas, obviously the licensee is a party to the violation. If, however, the licensee is equally guilty, his participation being necessary to the agreement, instead of being penalized he becomes a beneficiary of his own willful act. He can now proceed to utilize the invention without the payment of royalties; he is now in a stronger position than he was prior to the seizure by virtue of the fact that he is relieved from the restrictions of the license. He would profit by his own wrong. Not only will the licensee profit by the removal of the restriction, but he will have the additional advantage of an opportunity to acquire ownership of the very patent which he himself caused to be forfeited to the Government.

I need not comment on the advisability of having the United States Government engaging in the business of selling patents and patent rights, which the recommendation proposes to do.

The justification for the penalty, contained in the second paragraph of the proposal, is that it "would adapt to the patent situation a familiar principle of law"—i. e., that the patent agreement is similar to a "public utility franchise", and an abuse should result in the same penalty which is forfeiture of the privilege.

I am not too familiar with the law on the subject of forfeiture of public franchises for abuse of the privilege, but assuming this is an established principle in the law, nevertheless there are inherent distinctions between the privilege of a public franchise and the private property right in a patent. It does not follow that a penalty appropriate in one case would necessarily be appropriate in the other.

CONCLUSION

I have attempted to analyze the scope and effect of the proposals advanced by the Department of Justice.

I suggest consideration be given to the desirability of legislation along the following lines:

1. That licenses of the following character be required to be reduced to writing and recorded in the United States Patent Office:

a. Licenses to which a citizen or resident of a country foreign to the United States is a party.

b. Licenses capable of reduction to writing between citizens or residents of the United States which contain restrictions on production, price, geographical area, and field of use.

2. Where a single control or ownership of a group of patents has the effect of permitting the owner to dominate an industry or directly restrain interstate commerce to the detriment of the public, rights under such patents shall be made available to others on such terms and conditions as may be determined as reasonable by the Court before whom the facts are developed.

The test as to the restraint of interstate commerce to the detriment of the public shall be whether or not the articles covered by the patents are made available to the public in such quantity as to satisfy the demand, and at a reasonable price.

Cordially yours,

CONWAY P. COE, *Commissioner.*

REJOINDER BY THURMAN ARNOLD TO LETTER FROM CONWAY P. COE

DEPARTMENT OF JUSTICE,
Washington, March 29, 1941.

HONORABLE JOSEPH C. O'MAHONEY,
*Chairman, Temporary National Economic Committee,
Senate Office Building, Washington, D. C.*

MY DEAR SENATOR: In a letter dated March 12, 1941, Mr. Dewey Anderson, the Executive Secretary of the Committee, has asked me to comment on the criticism of the proposals of the Department of Justice for amendments to the antitrust laws which has been submitted by Conway Coe, Commissioner of Patents, and which appears in the verbatim record of the Committee for March 11, 1941.

The recommendations of the Department which Mr. Coe now attacks were approved by the committee "for immediate action by Congress" in its preliminary report submitted to the Senate on July 14, 1939, and this was done without any objection on the record from either the Department of Commerce or the Com-

missioner of Patents. Despite this circumstance, I feel that I should now make some comment on the criticisms contained in Mr. Coe's letter. I feel that a reply is particularly appropriate because the letter reproduces, without substantial change, the criticisms of our proposals which have been made, from time to time, by certain members of the Patent Bar and because it concludes with an extraordinary proposal to weaken the antitrust laws so as to promote abuses of the patent privilege.

The greater part of Mr. Coe's letter is devoted to a general criticism of our proposal that certain kinds of restrictive conditions in patent license agreements be declared illegal. The letter also contains a number of detailed criticisms of the specific recommendations made by the Department of Justice. One of these detailed criticisms appears to possess some merit; a few of the others seem substantial enough to deserve comment. But these detailed criticisms are of little importance as compared with the fundamental issue which separates the Department of Justice from Mr. Coe. That issue is whether restrictive conditions in patent license agreements are socially and economically desirable. I shall direct the greater part of my reply to this question, and shall reserve my comments on Mr. Coe's detailed criticisms for the concluding part of this letter.

We take the view that provisions in patent license agreements which restrict the production of commodities, the purpose for, or manner in which they may be used, or the geographical area in which they may be produced or sold, or which fix the prices at which commodities may be sold, are, in most instances, contrary to the public interest. Mr. Coe, on the other hand, flatly takes the position that these restrictive positions are desirable and within the proper scope of the patent privilege.

Our view that these restrictive practices are undesirable rests upon detailed testimony presented to the Committee in public hearings, upon a study of the practical operation of the patent system, particularly in relation to competitive conditions in American industry, and more particularly upon evidence unearthed in an investigation of specific violations of the antitrust laws, under cover of the patent privilege, which we have carried on for the past two years. A careful examination of the evidence has led us to the considered conclusion that these restrictive provisions in patent license agreements are used: (1) to concentrate control in small groups and to exclude others from industry; (2) to fix prices, control production, limit capacity, and otherwise prevent the free play of competitive forces; and (3) to control and impede American production and American development to the advantage of foreign interests, both private and governmental.

The evidence to support these conclusions seems to me to be overwhelming. It was sufficient to convince the Committee when it made its preliminary report, and adequate, I think, to convince anyone who does not approach the problem with an emotional bias which contrives every criticism of a patent practice as an attack upon the entire patent system. Mr. Coe makes no attempt to discuss this evidence in detail or to evaluate it in the light of the experience of those governmental agencies particularly charged with the duty of preventing restraints on trade and preserving free competition. On the contrary, except for two references to isolated pieces of testimony before this Committee, Mr. Coe seeks to support his criticism by *a priori* reasoning, by references to hypothetical cases which it is asserted illustrate the hardship which the Department's recommendations would impose, and by the citation of general expressions of opinion unsupported by any references to specific facts or situations. In passing, I may add that the two references to the testimony before the committee disclose either an ignorance of the facts which were presented, or an inability to understand the true import of the testimony.

Mr. Coe's argument that restrictive provisions promote the public interest is presented in several forms: At one point Mr. Coe suggests it is unwise to confront the patent owner with the choice of granting an unrestricted license or no license at all. This argument is without merit. There is no substantial ground for believing that the public interest will suffer if the patentee is required to make this choice. If he grants an unrestricted license, the public interest will be served, and Mr. Coe makes no suggestion to the contrary. The patentee's own interests will be protected because he will be entitled to collect royalties. If he determines not to grant a license and retains the invention for his own use, there seems little real basis for fearing the consequences which Mr. Coe predicts. Mr. Coe professes to believe that if the law gives the patentee an incentive to retain the patent for his own use, monopoly conditions in industry will be encouraged. In fact, this is not what happens under modern economic conditions. Few patents are so basic in their claims or so sweeping in their effect that, standing alone, they will enable a patentee to dominate or to monopolize an industry in whole or in

part. If the patent has real value, that is to say if it covers a device or a process or a product which is important and desirable and whose use will be profitable, other persons can and will develop an alternative method of accomplishing the same result. This will serve to encourage research, development and invention.

This brings me to another point which is of great importance. If a patentee does not have the power to grant restrictive licenses, the chances will be better for a real test of the patent's scope and validity. If the patentee retains the patent for himself, and the patent has real commercial value, others engaged in the same industry will either develop an alternative invention or test the validity of the patent. Time and again, in our investigations we have found the restrictive license used to avoid the test of a patent's validity. Various groups in an industry, who possess patents of doubtful validity, will combine and agree not to contest each other's patents. They then issue restrictive cross licenses which divide the field, fix prices, limit production, and otherwise protect the patent holders against the consequences of a free market. The individual members of the combination are willing to make the cross-licensing arrangement because the restrictive provisions in the licenses protect each of them in its selected field of activity and protect the group as a whole against the consequences of competition. A prohibition against restrictive licenses would drastically curtail both the incentive and the opportunity for this kind of arrangement.

Mr. Coe himself recognizes that this will be one effect of the Department's recommendations. He seeks to obscure the real effect of this consequence, however, by saying that a "most unfortunate effect" of the proposal "would be to increase litigation, both in the courts and in interference proceedings in the patent office." The Department of Justice has no desire to increase patent litigation. On the other hand, it is important that the validity and scope of patents be tested in the courts. Indeed, the patent law itself contemplates that a patent shall be subjected to this test if there is any doubt as to its validity or scope. The testimony before this Committee indicates beyond doubt that the patent office, as presently administered, is incapable or unwilling to subject patent applications to the kind of rigorous examination which is desirable. On the one hand, patents are issued with claims so broad that they purport to cover virtually the entire technique of an industry. On the other hand, patents are multiplied upon the trivia of technology. The committee will recall that on one occasion in its hearings it was shown that upwards of 25 patents had been issued which related solely to the shape of the slot in the head of a screw. This example is doubtless more dramatic than others which might be used to prove the same point, nevertheless, it is indicative of a trend which no thoughtful person can regard without concern. A prohibition against restrictive licenses would do much to impel litigation in the courts which would test the validity and scope of many of these doubtful patents. Certainly, it would eliminate one device which is commonly used to avoid precisely the kind of test or validity which every doubtful patent should undergo.

If there is serious danger that monopoly will be encouraged by a rule which requires the patentee either to grant unrestricted licenses or none at all, the remedy seems obvious to me. If this danger is as substantial as Mr. Coe thinks it is, the committee may well wish to consider recommending that if a patentee, by the possession of a patent, is in a position to dominate, or monopolize, or control an entire industry, the law should require him to grant licenses upon reasonable terms and conditions.

The argument that it is unwise to require a patentee to grant an unrestricted license, or none at all, is coupled with the suggestion that the effect of this proposal will be to injure small business. No doubt it is possible to think of hypothetical cases in which a small business would be placed at a disadvantage if these restrictive provisions are outlawed. Probably it is also true that there may be a few actual instances in which this recommendation may work a real hardship on some small business. But the merit of the proposal cannot be tested by hypothetical cases or by isolated examples. The decision under consideration here, like any legislative decision, must be made in general terms and with an eye to a general situation. It is impossible to frame a rule which will achieve perfect results in every conceivable case. The problem is to find a rule which will work well in the generality of cases. In the experience of the Department of Justice, it is not the small business, but the large one which uses restrictive licenses to control and stifle competition. It is significant that no representative of a small business, and by that I mean a man actually engaged himself in business, has appeared before the committee to defend these particular patent practices. To the extent that the committee has heard complaints from small businessmen, those complaints have been directed against precisely the kind of practices which these restrictive

provisions represent. The proposals made by the Department of Justice permit the small businessman to retain his patent for his own use and to exclude others from exploiting the particular device or process which he patent covers. I believe that this protection is all that the small businessman wants or needs from his patent.

Mr. Coe also seeks to color his argument by frequent reference to the desirability of protecting the individual inventor. The weight of the testimony before the committee proved that research and development has now become a group or corporate activity. This testimony served merely to document a conclusion which I believe has been accepted by everyone who has observed the conditions actually existing in the business and economic world. In dealing with the patent system, it is no longer helpful to think in terms of the erratic and solitary genius. The problem no longer hinges on the activities of a Watt, a Stephenson, a Whitney, or an Edison. To think in those terms is to consider history and not the reality which we face today. The patent system and the scope of the patent privilege must now be considered against the background of such aggregates of capital as I. G. Farben, General Electric Company, The Radio Corporation of America, The American Telephone and Telegraph Company, The Hartford-Empire Company, and the patent pools and international cartel arrangements to which they are parties. This is not to say that patents are not important in the operations of smaller enterprises. But, even here, the emphasis has shifted from the individual to the company or the group.

A similar detachment from the facts of modern society underlies all of the remarks which Mr. Coe makes with respect to the various kind of restrictions which the Department proposes to outlaw. Thus, the restrictions as to price which Mr. Coe says are "both desirable and necessary," are, in fact, used to fix arbitrary and non-competitive prices for commodities through every stage of their distribution from the factory door to the hands of the ultimate consumer. This is not a device ordinarily used to protect the inventor or the small businessman. If it were, a grave doubt would still exist as to whether the large body of consumers, including all of the low-income group, should be victimized by artificial prices in order to provide an enhanced reward for the individual inventor or the small businessman.

Nor is the restriction as to use a means of protecting the inventor or the small businessman. On the contrary, it is a device which is used by large aggregations of capital to carve up a field of activity into exclusive industrial empires and to protect those empires against the consequences of free competition. So it is with a restriction as to the geographical area within which a patent or a patented article may be used. This particular restriction is of great importance in the international field. Its prevalence is largely responsible for the fact that this country is now short of many vital and strategic materials which we need badly for our defense effort. Indeed, this particular kind of restrictive condition has been the chief weapon which foreign interests have used to exclude our industries from the world market and to curb and control our productive capacity. It is this specific practice which led Assistant Attorney General Littell to say with great force and accuracy in a recent speech that "the American Patent Office has been a happy hunting ground for German agents."

Even Mr. Coe can find little to say in support of restrictions which control the quantity of a product which may be produced. He contents himself with the observation that "numerous instances arise" when such a restriction is desirable and makes no real attempt to support this observation.

One additional argument which Mr. Coe makes deserves, I think, a brief comment. He seeks to derive some support from language found in two decisions of the Supreme Court—*United States v. General Electric Company*, 272 U. S. 476, and *General Talking Pictures v. Western Electric Company*, 305 U. S. 124. It is by no means clear to what extent the language in these opinions can be regarded as definitive of the present state of the law. The Department of Justice has publicly announced that when an appropriate occasion arises, it will ask the Court to reconsider its decision in both cases. It has been the experience of the Department that the more astute and public-spirited counsel for private interests are now reluctant to rely upon a literal interpretation of the language of these opinions. But these aspects of the matter are beside the point. Mr. Coe seems to be under a misapprehension, both as to the nature of the problem which the committee has under consideration, and as to the function which the Supreme Court performs in our system of government. This Committee is considering a legislative question, i. e., what should be the scope of the patent privilege in relation to the anti-trust laws. The Supreme Court expresses no views on a legislative problem of this kind. The most that can be said for the language which Mr. Coe cites is that it is indicative of the present state of the law. The Supreme Court itself

would doubtless be the first to deny that its language has any bearing whatsoever on the question of what the law should be or what action Congress should take in dealing with the grave problems which abuses of the patent system create.

These general observations dispose of all of the more important arguments advanced by Mr. Coe in objection to the basic recommendation of the Department that these restrictive conditions in license agreements be made illegal. I shall now discuss briefly the detailed criticisms which Mr. Coe makes of our recommendations. The points which Mr. Coe makes with respect to recommendation No. 1 of the Department have been covered in the general discussion of restrictive provisions. Recommendation No. 2 of the Department is that the same kind of restrictive conditions be made illegal in the case of the sale, lease or other disposition of an article produced or sold under a patent. Mr. Coe makes a number of minor criticisms of this recommendation, most of which are frivolous. The quality of his criticisms can be indicated by his remark that this recommendation is objectionable because it would prevent a patentee from stipulating in the lease of a machine or product that the article leased should not be used for illegal purposes. Assuming that this is true, it seems incredible that it should be advanced as a serious objection to this recommendation.

Recommendation No. 3 is that license agreements, sales, assignments of patents, or patent rights be evidenced in writing and a copy filed with the Federal Trade Commission. Mr. Coe objects to the requirement that the agreements be filed with the Federal Trade Commission and suggests that they be filed instead with the patent office. This criticism betrays a complete misunderstanding of the purpose of this recommendation. The recommendation was made for the purpose of providing agencies of the Government with complete information as to license agreements so that it would be possible to strike down restrictive practices in their incipency. The proposal is not designed to assist in the administration of the patent office or to provide information which will be useful in the consideration of technical patent problems. Thus, the very purpose of the recommendation is inconsistent with the suggestion that the agreements be filed with the Patent Office. Even if we should assume that the Patent Office, as presently administered, has any desire to preserve a free economy, it has been given no authority by Congress to deal with this problem. If license agreements are to be filed, they should be filed with a vigorous and independent agency, charged by Congress with the duty of protecting free enterprise, and alert and ready to perform that duty. The Federal Trade Commission, and not the Patent Office, satisfies these requirements.

The other criticisms made by Mr. Coe of the proposal of this Department require little comment. One is that the proposal appears to apply to assignments which arise by operation of law. The proposal, of course, was cast in general language and no attempt was made to put it in final statutory form. If it is desirable or necessary to exempt assignments by operation of law, and if the present language of the proposal does not do so, that change can no doubt be made by the draftsman. Mr. Coe also suggests that the provision would require the filing of contracts covering a number of situations which arise in the ordinary course of business. The only comment which seems necessary on this point is that the recommendation in its present form does not appear to apply to transactions of this kind.

Recommendation No. 4 of the Department was designed to prevent one practice which is widely prevalent in patent litigation. That is the practice of suing for infringement some minor user or vendor of an article or process who is unable or unwilling to make a vigorous defense against the suit. By this method the validity of patents is often sustained in litigation as to which the real party in interest has no information and in circumstances which make it impossible for him to control the defense of his own interests. Furthermore, the threat of a multiplicity of suits against users and vendors is often used to restrain competition, even in advance of an adjudication of a patent's validity. Mr. Coe, himself, recognizes the existence of the evils which this proposal was designed to remedy. He points out that in certain cases the proposal may involve some hardship on a patentee; this may be admitted without in any way destroying its merits. So far as Mr. Coe's objections to the form of the proposal are concerned, we shall be glad to consider any suggestions he may wish to make which will serve to clarify the proposal or to make its operation more practical and effective.

Recommendation No. 5 of the Department follows:

"If any person who owns a patent or an interest in or exclusive right under a patent, violates any of the prohibitions described in paragraphs 1 and 2 above, he should forfeit his patent or his interest in or right under a patent to the United States, and such forfeiture should be recoverable in a civil action against such

person by the United States. It should be provided that, upon a proper showing in such an action, a judgment should be entered requiring the defendant to assign his patent, or interest in, or right under a patent, to the United States, such assignment to be received by the Secretary of the Treasury in the name of the United States. Thereafter, the patent or patent right would be offered for sale under the direction of the Secretary of the Treasury in the manner prescribed by law."

If the proposal to make the restrictive provisions illegal is desirable, then this provision seems to provide an appropriate sanction. It is a pity that Mr. Coe should attempt to dismiss the analogy between a patent and a public franchise by the statement that he is not familiar with the law on the subject of the forfeiture of public franchises. A patent, in fact, is a public franchise. If Mr. Coe could bring himself to recognize this fact and to cease regarding the patent as absolute private property which may properly be exploited to the limit, he might be more sympathetic to our proposals.

Mr. Coe makes one point in connection with this proposal, however, which appears to have merit. He points out that there are objections to having the Government seize the patent and sell it. Upon consideration, these objections seem to me to carry considerable weight. I am, therefore, glad to adopt Mr. Coe's criticism in this respect. It seems to me that those criticisms provide a basis for recommending that instead of having the patent seized and sold by the government, the patent should be forfeited and the product or process or device which it covers should thereafter lie in the public domain and be open to the use of anyone without the payment of royalties.

I now come to a very extraordinary passage in Mr. Coe's letter which contains the one important affirmative recommendation which he appears to be willing to make. The recommendation is made in the following language:

"Where a single control or ownership of a group of patents has the effect of permitting the owner to dominate an industry or directly restrain interstate commerce to the detriment of the public, rights under such patents shall be made available to others on such terms and conditions as may be determined as reasonable by the Court before whom the facts are developed.

"The test as to the restraint of interstate commerce to the detriment of the public shall be whether or not the articles covered by the patents are made available to the public in such quantity as to satisfy the demand, and at a reasonable price."

The startling character of this proposal does not appear on the surface. It is only when one examines the concluding paragraph that the nature of this proposed change in the law is exposed. In my view, it is now the law that where control or ownership of a group of patents has the effect of permitting a person or a group of persons to dominate an industry or to restrain interstate commerce, the antitrust laws are violated without the proof of any additional facts. Mr. Coe proposes, however, that a new and different test be applied. He would require the Government to show affirmatively that the articles covered by the patent are not made available in a quantity to satisfy demand and that the price at which they are sold is not reasonable. No such burden is now imposed upon the Government by the antitrust laws. The test which Mr. Coe suggests is obviously illusory. It is not a test which, as a practical matter, could be applied successfully. No court could determine whether a price is reasonable without engaging in a lengthy investigation comparable to the kind of process which an administrative body goes through when it fixes rates for a public utility. Inasmuch as demand is linked inseparably to price, that separate test would likewise involve the same difficulty. In any event, the theory which underlies the antitrust law is that demand and price will be controlled by the free play of competitive forces and not by the action of a court or an administrative body. The practical effect of this proposal, if adopted, would be to preclude the Government from dealing with situations which it is now free to attack and to remedy under the antitrust laws. In short, this is a proposal, somewhat obscured by its form, to strengthen the economic position of groups which dominate industries in reliance upon the patent privilege at the expense of the public generally and particularly at the expense of the low-income groups. In my experience, I have heard many proposals to substitute a regimented and controlled economy for free enterprise. I have never before seen one advanced in such an oblique form and with such apparent ignorance of its obvious consequences.

In concluding, I should like to make two general observations: The great body of Mr. Coe's criticism seems to me to be vitiated by his failure to understand the true basis of the patent system. The power to grant patents is conferred by Article VIII, Section 1 of the Constitution, which authorizes the Con-

gress "to promote the progress of science and useful arts." The scope of the patent privilege must be determined in the light of this general constitutional purpose. The reward to the inventor is a means for the accomplishment of this general purpose and not an end in itself. This basic principle has become somewhat obscured by the practices of the market and by the natural inclination of men to regard a privilege long enjoyed and frequently abused as conferring on them some absolute and inalienable right. In the interests of the patent system itself and in the interests of the public, some recognition of the basic constitutional purpose of the patent law and of the larger objectives which it seeks to attain is desirable.

This leads me to the second observation, which I address particularly to those who, like Mr. Coe, have a special interest in patents and in patent law. It is my belief that at the present time there is great dissatisfaction with the operation of the patent system. The consumers see in many patent practices devices for raising and maintaining artificial prices and discouraging production. Individual inventors complain that the patent law does not serve to protect them against exploitation by large organizations. Businessmen complain that the patents interfere with their fullest use of their competitive talents, that they are required to spend time and money in fighting off attempts to dominate them by the use of patents, and, in brief, that the patent has ceased to be a means of rewarding invention and has become a weapon for economic and industrial aggrandizement. Those who are familiar with the patent system and with its technical details would do well to set themselves to the task of reform. It is the history of all branches of law, particularly those which are esoteric in character, that if their custodians too long and too stubbornly resist reform, the change which ultimately comes is so cataclysmic that the good often disappears with the evil. The greatest danger to the American patent system today is the blindness of its friends and not the malevolence of its critics.

Sincerely yours,

THURMAN ARNOLD,
Assistant Attorney General.

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